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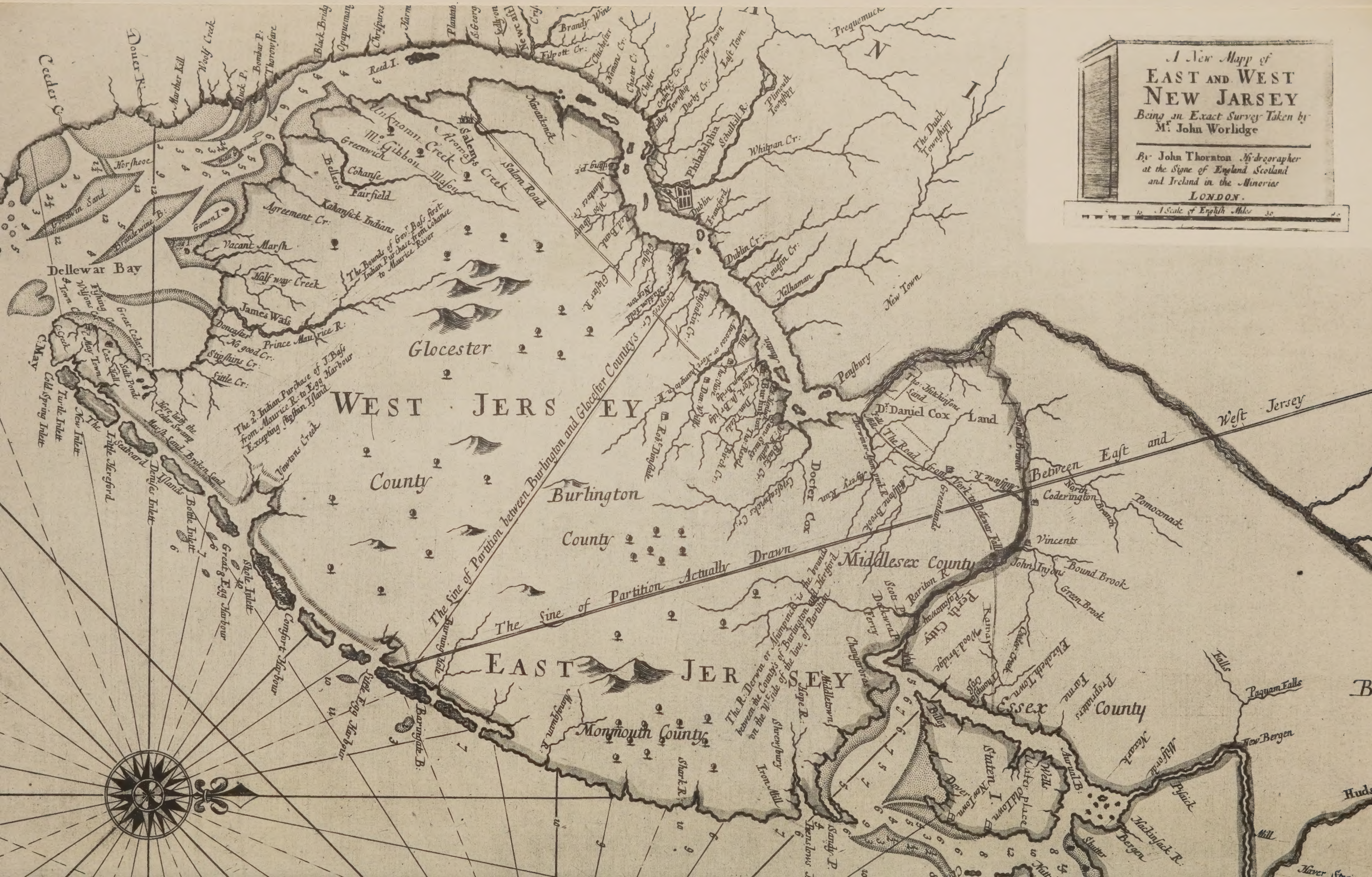
A New Mapp of
EAST AND WEST
NEW JARSEY
Being an Exact Survey Taken by
Mr. John Worlidge
By John Thornton Hydrographer
at the Signe of England Scotland
and Ireland in the Minories
LONDON.
A Scale of English Miles
WEST JERSEY
EAST JERSEY
Glocester County
Burlington County
Middlesex County
Essex County
Monmouth County
The Line of Partition between Burlington and Glocester Counteys
The Line of Partition Actually Drawn Between East and West Jersey
The R: Derwen or Alumpinck is the bounds between the Countys of Burlington and Hartford on the W. side of the line of Partition
The Bounds of Gov. Bass first Indian Purchase from Cohanse to Maurice River
The 2. Indian Purchase of J. Bass from Maurice R. to Egg Harbour Excepting Tipfhin Island
Dellewar Bay
Philadelphia
Burlington
Salem
Salem Road
Perth City
Staten I.
Dr. Daniel Cox Land
Docter Cox
The Road from York to Delewar Falls
Pensbury
New Town
The Dutch Townshipp
Plimouth Township
Whitpan Cr.
Schullkill R.
Dublin
Chester
Brandy Wine
New Castle
Reed I.
Dover R.
Ceeder C.
C. May
Cape May Town
Cold Spring Inlett
Turtle Inlett
New Inlett
Little Hereford
Denises Inlett
Bottle Inlett
Great Egg Harbour
Shole Inlett
Comfort Harbour
Little Egg Harbour
Baringate B.
Burning Hole
Manasquam R.
Shark R.
Shrewsbury
Iron Mill
Middletown
Sandy P.
Wood-bridge
Elizabeth Town
Newark
Milforde
New Bergen
Bergen
Hackinsack R.
Pasaick
Paquam Falls
Bound Brook
Green Brook
Vincents
Pomoconack
Greenlands
Rob. Dinsdale
Maurice R.
Cohanse
Greenwich
Fairfield
Mc Gibbon Creek
Agreement Cr.
Kahansick Indians
Half way Creek
Vacant Marsh
James Wals
Yowtons Creek
Here lieth the Cedar Swamp
Marsh Sand Broken Land
The Seaboard Islands

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The Province of East New Jersey

1609-1702

The Rebellious Proprietary

BY JOHN E. POMFRET

PRINCETON, NEW JERSEY
PRINCETON UNIVERSITY PRESS
1962

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For John Edwin II
and Dana Katherine

Foreword

This history of proprietary East New Jersey is a companion volume to *The Province of West New Jersey, 1609-1702.* Though the two proprietaries were united as a royal colony in 1702, there were great differences between them: West Jersey was a Quaker colony while East Jersey was a combination of ethnic and religious elements, especially New England Puritan and Scottish Calvinist. West Jersey was essentially a rural community with few towns. East Jersey colonists, following the New England model, founded compact settlements. During the early years the Puritan congregation—just as the Quaker meeting in West Jersey—exercised as much authority as the town officers. In West Jersey the local government was loosely knit, while in East Jersey town government was of more importance than the county organization. In both divisions the great dependence was upon agriculture, and though both endeavored to get their own wheels of commerce and trade turning, East Jersey was dominated by the port of New York and West Jersey became part of the hinterland of Philadelphia.

West New Jersey was a peaceful community where Quakers strove to settle all matters by patient and considered deliberation. East New Jersey was a rebellious colony. There were many reasons for its intransigent attitude toward authority. The failure of the Berkeley-Carteret proprietorship to recognize titles granted before the arrival of Governor Carteret was a source of prolonged irritation. The insistence of the proprietors upon collecting quitrents caused unending strife under whatever proprietor or governor. East Jerseymen were as allergic to quitrents as were the settlers of Pennsylvania under the benevolent William Penn, and whenever possible the colonists ignored them. East Jerseymen also disliked paying for the expenses of government. Their reaction to taxes was identical with that of West Jersey and Pennsylvania settlers. All pleaded speciously that the country was too poor to support any system of taxation. East Jerseymen carried their attitude too far in trying to withhold taxes for the support of Their Majesties' realm when the French threatened New York. The continuous wrangle between the governor and the lower house over taxes was a cause of many dissolutions.

Another major source of unrest and unhappiness stemmed from Charles II's inexplicable creation of proprietary colonies at a time when his advisers had hoped to expunge those already in existence. The lords of trade and plantations and the board of trade, which succeeded them in 1696, exerted unrelenting pressure upon the crown to convert such plantations into crown colonies. West Jersey, East Jersey, and Pennsylvania were uncomfortable throughout the entire period. The East Jersey proprietors, especially after 1685 when the first *quo warranto* challenging their right of government was issued, were put in the position of defending their right of government almost as a daily occupation. Even before that time Governor Andros of New York, assuming that the New Jersey proprietors enjoyed no such right, rode roughshod over them. And just before the Glorious Revolution, Andros as governor general of the Dominion occupied both East and West Jersey. From the beginning the governors of New York held fast to the thesis that New York was suzerain so far as the control of ocean-borne commerce was concerned. This uncertainty as to the right of government was hardly conducive to peaceful development.

The colonists were in a constant state of rebellion about these conditions. They resented the curtailment of privileges that they were told they had the right to enjoy. They appealed to the proprietors for relief, and when relief was not forthcoming, they blamed the proprietors. The colonists themselves, though they might wish to, could hardly defy the government of New York or any of the agencies of the crown, military or bureaucratic. Their main grievance was against the proprietors who, to them, seemed guilty of gross neglect. When the crown finally took steps to force a surrender of the proprietary charter, East Jersey colonists were already convinced that no status could be worse than theirs under the proprietors.

East Jersey, like West Jersey, grew slowly as a colony. The uncertainties regarding the right of government and free trade discouraged the coming of both settlers and venture capital. Yet despite a slow growth by 1702 East Jersey was solidly settled with eight established towns, a perceptible "filling in" of settlers, and recognizable frontier expansion. Although some of the town records have been lost, those of Newark, Middletown, and Piscataway reveal that local government served the needs of the colonists well. The famous Concessions and Agreements, borrowed from the abortive Constitutions of Carolina, were liberal and came to be treasured by the anxious colonists. As they gained local prestige, the proprietors were loath to violate them. After the "revolution of 1672" the Concessions were outraged by Proprietor Carteret, only to be fully restored by the Twenty-Four Proprietors.

East New Jersey, like West New Jersey, deserves a separate, comprehensive, treatment. It was one of the original middle colonies, and in many respects its history is unique. This volume sets forth the history of this complex proprietary in order to establish its identity among the early American colonies.

Far more than my work upon proprietary West Jersey this study draws upon the research of others. Every historian of early New Jersey recognizes a debt to William A. Whitehead for his editing of the New Jersey colonial documents and for his pioneer study, *East Jersey under the Proprietary Governments*. One is indebted also to Edwin P. Tanner's *Province of New Jersey, 1664-1738*, a topical treatment, and to Nelson Burr's *The Anglican Church in New Jersey*, a fine research accomplishment. In 1937 Dr. Preston W. Edsall edited the *Journal of the Courts of Common Right and Chancery, 1683-1702*, and in 1949 the Board of Proprietors of the Eastern Division of New Jersey saw fit to publish their *Minutes from 1685 to 1705*. These and other books and articles have been most helpful. The principal object of this book is to present a story that has never been fully recorded.

The research repositories, too, have been most helpful. I am indebted to the staffs of the New Jersey Historical Society, the New York Historical Society, the libraries of Princeton University, Rutgers University, and the College of William and Mary. The corpus of this study, however, was written at the Huntington Library. I owe a special debt to Professor Thomas J. Wertenbaker for his interest, to the Department of History of Princeton University for sponsoring this work, and to the Princeton University Press. Mrs. Nancy C. English and her editorial assistants—Miss

Mary Jane Bragg, Miss Ellen Drews Kristensen, Miss Anna C. Smith, and Mrs. Mary Jo Tromblé of the Huntington Library—have saved the writer many hours of typing. The footnotes will identify the sources of my findings.

JOHN E. POMFRET

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Frontispiece, detail from "A Mapp of East and West New Jarsey, being an Exact Survey Taken by Mr. John Worlidge, by John Thornton, Hydrographer, at the Signe of England Scotland and Ireland in the Minories. London." (c. 1700). *Courtesy of the Library of Congress.*

FOOTNOTE ABBREVIATIONS

Andrews, *Colonial Period*—Charles M. Andrews, *The Colonial Period of American History*, 1934-1938.

Barclay vs. Stirling—*Bill in the Chancery of New Jersey at the suit of Robert Barclay against William, Earl of Stirling*, 1773.

D.A.B.—*Dictionary of American Biography.*

D.N.B.—*Dictionary of National Biography.*

Fox, *Journal*—*The Journal of George Fox*, 1911.

Fox, *Short Journal*—*The Short Journal and Itinerary Journals of George Fox*, 1925.

Leaming and Spicer—Aaron Leaming and Jacob Spicer, *The Grants, Concessions, and Original Constitutions of the Province of New Jersey*, 1758.

M.P.E.J.—*Minutes of the Board of Proprietors of the Eastern Division of New Jersey from 1685-1705*, 1949.

N.J.A.—W. A. Whitehead, W. Nelson, F. W. Ricord, eds., *New Jersey Archives*, First Series, 1880-1893.

- I-III, *Documents relating to the Colonial History, 1631-1709.*
- XIII, *Journal of the Governor and the Council, 1682-1714.*
- XXI, *Calendar of Records in the Office of the Secretary of State, 1664-1703.*
- XXIII, *Calendar of New Jersey Wills, 1670-1730.*

N.J.H.S. Proc.—*New Jersey Historical Society Proceedings.*

N.Y.C.D.—E. B. O'Callaghan, ed. *Documents relating to the Colonial History of the State of New York*, 1849-1851.

P.M.H.B.—*Pennsylvania Magazine of History and Biography.*

Pomfret, *West Jersey*—John E. Pomfret, *The Province of West New Jersey, 1609-1702.*

Stair vs. Bond—*A Bill in the Chancery of New-Jersey, . . . at the Suit of John Earl of Stair . . . against Benjamin Bond*, 1752.

Whitehead, *East Jersey*—W. A. Whitehead, *East Jersey under the Proprietary Governments*, etc., 1875 (Revised edition).

Whitehead, *Perth Amboy*—W. A. Whitehead, *Contributions to the Early History of Perth Amboy*, etc., 1856.

The Province of East New Jersey 1609-1702

CHAPTER I

Pavonia, the Dutch Outpost

WHAT became in 1664 the proprietary colony of East Jersey was part of the short-lived Dutch colony of New Netherland that extended, roughly, from the Connecticut River to the Delaware Bay. In English eyes the Dutch were interlopers, since England claimed this territory by virtue of the voyage of John Cabot in 1497. In 1606 the King of England had granted rights of settlement in lands reaching from Maine to Carolina to the Virginia Company of London and the Virginia Company of Plymouth. The Dutch West India Company, with a post on the Hudson, squatted on this terrain in 1621; and in 1638, at an opportune moment, the Swedish West India Company established a settlement on the Delaware River.

To the voyager and the explorer, the coast of New Jersey was uninviting. Navigators warned of the endless succession of long sand bars, shoal water, and marshy shores. Only the two great inlets, New York Bay at the north and Delaware Bay at the south, attracted their attention. Verrazano, an Italian sent by Francis I of France, entered New York Bay in 1524, and Gomez, the Portuguese captain acting in behalf of Spain, sailed into the bay a year later. Both were seeking a passage to the East Indies. But the early records make no mention of either bay or of the coast of New Jersey from 1525 to 1609.

The Dutch East India Company, founded in 1602 at Amsterdam, sought a Dutch route to the Far East that would not impinge upon the Spanish-Portuguese trade lanes. In 1609, Henry Hudson, a seasoned English navigator, was commissioned by the Company to find such a passage. His quest for a northwest passage led him from the coast of Maine down to the Chesapeake. During the voyage he penetrated Delaware Bay and spent nearly three weeks exploring the Hudson River as far north as the site of Albany. Hudson's voyage discredited the belief that there was a passage in the north temperate coasts that led to Cathay. It also acquainted the Dutch with the wealth of beaver, otter, and other furs that could be had in the valley of the Hudson. On the return voyage Hudson took leave of the *Half Moon* in England, but others aboard who went on to Holland testified to the treasure that lay waiting.

In spite of Hudson's discoveries, the East India Company did not act. The peace party in Holland wished to avoid hostility with Spain, with whom the Dutch had just concluded a twelve-year truce. Private merchants then took the lead in following up Hudson's voyage. In 1614 thirteen of them in Amsterdam and Hoorn obtained a three-year monopoly of trading in what was to become New Netherland. Each voyage was financed by joint-stock association by members of the group known as the United New Netherland Company. During the seven years of its franchise, or until the Dutch West India Company was formed in 1621, only four voyages were undertaken. In 1617 a request for renewal of its privileges was denied, and only individual licenses were granted. The States General by now had determined upon the creation of a West India Company. With the shelving of the peace treaty in 1619 and the expiration of the truce with Spain in 1621, the way was cleared for an offensive against the traditional enemy. The Dutch West India Company was incorporated in 1621, but it did not begin operations until two years later.

In the years following 1609, much was learned of the geography and resources of New Netherland. The ships' captains of the United New Netherland Company, especially Hendrick Christiansen, Adriaen Block, and Cornelis May, ranged the seas and rivers from Cape Cod to the Delaware, gathering furs and seeking new sources of them. Late in 1614 Christiansen erected a small post, Fort Nassau, at Castle Island, now within the limits of Albany. A permanent garrison of ten or twelve traders was maintained there. A second small post was located in the Esopus region near the site of Kingston. Soon after building Fort Nassau, several traders reconnoitered overland to the Schuylkill, where they were captured by Indians. A rescue expedition led Christiansen by sea to this area. By 1616 England's agents in Holland had informed her that private Dutch factors were trading in the area between the Connecticut and the Delaware. Although the Dutch were to return to the Delaware and the Schuylkill, there was little commercial activity in New Jersey during this period. Aside from a minimal supply along the Delaware, New Jersey offered few furs.

In June 1621 the States General granted a charter of twenty-four years' duration to the newly created Dutch West India Company. War with Spain had broken out with the termination of the twelve-year truce. Thus, although the Company was given a trading monopoly along the Atlantic from Newfoundland to Cape Horn and along the west African shore from the Tropic of Cancer to the Cape of Good Hope, its principal activity was to harass the Spanish trading fleets and colonies. The Company was also given leave to establish colonies in "fertile and uninhabited districts." Though its posts and colonies would be supervised by the States General, the Company was to furnish its own ships, troops, forts, and colonists. The States General promised to aid the Company against competitors, to lend it a million guilders, and to help it in time of war. The major control was lodged in the Amsterdam Chamber, one of five chambers of directors formed in different Dutch cities.

In 1621 England awoke, formally denying the rights of Spain which were based upon the papal line of demarcation and proclaiming that possession and occupancy superseded title by prescription. She then warned the Dutch that, by right of occupation, James I had made good an English title to all lands from 41° N. to 48° N. The States General protested that it knew of no Dutch settlement that infringed upon English rights, even though it was aware that several all-year factors were already in the area.

For several years the West India Company made no great progress. Although only a third of its capital was subscribed, plans were drawn up for a new fort in the Albany area, Fort Orange, on the northern border of the present city. Through a licensing system, individual merchants spread over the area from Buzzard's Bay to the Delaware River with their ships.

In 1623 the States General formally constituted New Netherland a province, and control of it was vested in the Amsterdam Chamber and more especially its executive Committee of Nineteen, which had a representative in the States General. Finally, the Company sent a first shipload of emigrants to New Netherland. In March 1624 the *New Netherland*, a ship of 280 tons, carrying thirty families, mainly Walloons, left Holland. Cornelis May was master of the ship and in charge of the emigrants, of whom no list has been preserved. Arriving at Manhattan in May, in time to frighten off an intruding French ship, May left eight men on the island to organize a trading post. The rest were planted in other key places. Eighteen families, the largest group, were transported to Fort Orange, and smaller groups were sent to found Fort Nassau on the Delaware opposite the site of Philadelphia, and to Fort Good Hope, on the Fresh, or Connecticut, River, near the site of Hartford.

On Manhattan, there were no dwellings in 1623. Long Island was not settled until ten years later, and there is no mention of East Jersey until the system of patroonships was established in 1629. It was in the summer of 1626, with the arrival of Peter Minuit as director-general, that a colony was finally settled on Manhattan Island. Thirty bark hovels were erected along the bank of the Hudson, and a large fort was staked out. Concerned about Indian disturbances, Minuit called in all settlers from the outlying posts, leaving only a garrison of sixteen men at Fort Orange, and a single trading vessel, in lieu of Fort Nassau, on the Delaware. By the end of 1626, 200 settlers were residing at Fort Amsterdam on Manhattan, and two years later, 270. Another Indian war led to the defeat of the Mohegans by the Mohawks at Fort Orange, clearing the area of the former, who then settled along the Connecticut. The way was now open for a resumption of the Indian trade at Fort Orange.

The Dutch West India Company gave poor direction to the affairs of New Netherland, but its powers and privileges were practically unimpaired until the end in 1664. The directors and stockholders were more interested in a return on their investment than the welfare of the inhabitants. The quest for furs was never-ending. In the process the farmer was neglected. His land was leased him by the Company, and, although each settler was advanced necessities such as livestock, wagons, plows, and other equipment, these constituted a debt to be repaid with interest. No settler held title to the land he cultivated, nor could he trade on his own account. Yet, as the Company slowly realized, settlers were essential to aid in the defense against the Indians, to slow the pressure from the expanding population of New England, and to guard against the Swedes who appeared on the Delaware in 1638.[1]

In 1629 the Company attempted to divest itself of the responsibility of settlement by creating a system of patroonships. Any director who undertook at his own expense to transport fifty settlers would receive an estate with sixteen miles of river frontage anywhere except on Manhattan. With the patroonship went privileges enjoyed by an estate owner in Holland: the powers of magistracy, the right to collect tithes, gaming rights, and mill rights. A number were tempted to try the experiment, but only one, Kiliaen Van Rensselaer, succeeded. It was difficult to persuade men to emigrate with their families from Holland.

During 1629 and 1630 five grants were made. Three directors of the Company, Samuel Godyn, Samuel Bloomaert, and Kiliaen Van Rensselaer, as was their privilege, immediately entered into negotiations for patroonships. Godyn, president of the Amsterdam Chamber, took up lands at Swanendael, on the south side of Delaware Bay, but an attempt to settle there in 1631 ended in tragic failure. Albert Burgh, of whom nothing more is heard, carved out a stake on the New Jersey shore opposite. Rensselaer, aided by his energetic agent, Bastiaen Crol, obtained, through purchase from the Indians, great tracts below and above Fort Orange, which were settled and developed.

Michiel Pauw, of the Dutch petty nobility and owner of an estate near Utrecht, took up lands on the west bank of the Hudson in what became Bergen County and thus became the first European landowner in New Jersey. Because Pauw himself was an absentee, the business of purchase was managed by the director-general of New Netherland and his council. Hoboken-Hackingh, across the river from Manhattan, was purchased from the Indian chiefs Aromeauw, Tekwappo, and Sackwomeck, who acted in behalf of their tribes. Its southern boundary was Ahasimus (Horsimus), its western boundary, a marsh, and its eastern boundary, the Hudson. Hoboken was a Dutch name, spelled in many ways, while Hackingh, "land of the pipe," was the district that furnished a suitable stone for the making of Indian pipes. In August, Pauw obtained a separate deed for Staten Island. In November, he made a last purchase of Horsimus and Paulus Hook, parts of the Jersey City upland.

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[1] General works upon the Dutch background and New Netherland are C. M. Andrews, *The Colonial Period of American History*, 4 vols. (New Haven, 1934-1938), especially III, ch. 3; (Mrs.) Schuyler Van Rensselaer, *History of the City of New York in the Seventeenth Century*, 2 vols. (New York, 1909); S. G. Nissenson, *The Patroon's Domain* (New York, 1937); and the highly readable *Peter Stuyvesant and His New York* by Henry H. Kessler and Eugene Rachlis (New York, 1959). There is no work dealing specifically with the earliest Dutch activity in East Jersey.

Pavonia, extending from Weehawken on the north to Communipauw in the southeastern part of old Bergen County, just below Paulus Hook, was of some importance. The Indians had always crossed the Hudson from this district to Manhattan and especially to Long Island, a source of shell for the making of wampum. With the establishment of a Dutch post on Manhattan, they carried over their furs and peltry. Despite the fertility of the land and the possibility of trade, it was several years before Pavonia was settled. Pauw was obligated under the terms of the patroonship to plant fifty persons on his estate within four years, but in 1633 only Michael Paulusen, an agent, was there. Actually Paulusen was trading for the Company. Later he was instructed to build two dwellings for Pauw—one at Communipauw, later occupied by Jan Evertsen Bout, and the other at Horsimus, occupied by Cornelis Van Voorst. Bout, appointed factor of Pavonia by Pauw, arrived in New Netherland in June 1634, and Van Voorst succeeded him two years later.

In 1633 a dispute over the status of the patroonships broke out in Holland. Pauw and the others were accused of not conforming to the terms of their agreement. The Committee of Nineteen was authorized to treat with the patroons for the extinguishment of their rights, but later it was decided to revise the charter freedoms and exemptions. Under one article the Company reserved to itself Manhattan, Fort Orange, and Pavonia, provided that terms for the surrender rights to Pavonia could be worked out with Pauw. He was finally paid 26,000 florins ($10,400). Pavonia was a failure. Too few people were sent there; too little attention was paid to agricultural development; and there was always the temptation to trade with the Indians, until 1639 an exclusive privilege of the Company. The Company retained for use only the West India Company's farm, located at Horsimus, just north of Communipauw.

William Kieft became director-general in March 1638 at a time when New Amsterdam had sunk to seven *bouweries* (lands occupied by farmers and their families) and three plantations (cultivated lands not dwelt upon by the farmer). Kieft attempted to shore up a weak government and to bring new life to the colony. Abraham Isaacsen Planck purchased Paulus Hook for 250 guilders, and Bout leased the "company's farm in Pavonia."

Kieft's decision in September 1639 to impose a tax on the Indians, payable in maize, furs, or wampum, aroused their hostility. In 1641, trouble threatened because of an Indian's "revenge murder" of Claes Smits in New Amsterdam. A committee of "twelve select men" cautioned the director and his council against retaliation. David de Vries, from his trading post at Tappaen, twenty miles above Pavonia on the Hudson, reported that several Indians whose brandy had been cut with water had sworn vengeance. Shortly after, Garret Jansen Van Voorst was murdered at Communipauw. Kieft demanded the murderer in vain. During the winter of 1642-1643 the Mohawks, the strong nation to the north, sought to exact tribute from the tribes about Pavonia. They also slew seventeen settlers and seized many women and children as the whole populace fled to Manhattan. Soon the Hackingsacks moved toward Pavonia and encamped there. Thus, by February 1643, no Dutch settler lived north of Hoboken. At Hoboken there was now but a single *bouwerie*, that of Aert Van Putten; at Horsimus lived only Jacob Stoffelson; at Paulus Hook, only Abraham Planck and three tenants; at Lacher's Hook (Mill Creek Point), only Egbert Wouterssen, a tenant; at Communipauw, Jan Evertsen Bout, the former factor, and Dirck Straatmaker.

Despite the admonition of the Committee of Twelve, Kieft persuaded three of its members, including Planck, to petition him to attack the Indians in the name of "the whole of the freemen." Secretary Tienhoven and Hans Stein then crossed the Hudson to scout the Indian camp in Pavonia, against the advice of de Vries and Dominie Everardus Bogardus, the preacher of New Amsterdam. On February 25, Kieft gave orders to attack at Pavonia and at Corlaer's Hook. "You will break the Indians' heads, but it is our nation you are going to murder," de Vries commented bitterly. Eighty Indians—men, women, and children—were slaughtered outside Communipauw as they slept, many under the belief that the Mohawks had attacked them. Immediately the tribes united and began a campaign of retaliation. The farms of the Dutch were laid waste from the Raritan to the Connecticut, while the only defense that Kieft could improvise was a meeting of fast and prayer. Not until April, when their planting season was at hand, would the New Jersey Indians even heed the overtures of the Dutch. Finally it took the persuasion of the Long Island chiefs to convince them that Kieft could in any way be trusted. On April 22 a peace agreement was made between the director-general and his council, and the East Jersey tribes—the Tappaen, Reckgawawank, Kickawanc, and Sintsinck. All injustices were to be forgiven and forgotten; the parties promised not to disturb one another in the future; and the Indians agreed to inform the Dutch of any outside tribes plotting mischief and to forbid such tribes the use of their territory. Although presents were exchanged, the Indians were disappointed with the largesse of the Dutch. In August the war whoop was sounded again, by a coalition of seven tribes. Terrified, Kieft sought the advice of a council of eight, including Jan Evertsen Bout of Communipauw. Deciding on war, they sent small detachments to protect the *bouweries*. The task proved impossible, and in short order Pavonia was again laid waste—farm houses were destroyed, crops burned, and cattle killed or driven away. From Tappaen to the highlands of Navesink the Indians reigned supreme; the Dutch were driven back upon Manhattan.

Illicit traders had served the Indian well. For ill-gotten beaver they had given away guns, powder, and ball. Not until the spring of 1645 were the hard-pressed Dutch able to conclude a single treaty; and not until August was one made with the East Jersey tribes—the Ackinkes-hacky, Tappaen, Reckgawawank, Onaney, Marechowick, Nyack, Wappinx, Wiquaeskecks, Sintsinck, and Kickawanc. Again eternal peace was sworn, and, to ensure it, it was agreed that any aggrieved Indians would complain through their chiefs, and any Dutch through their director-general. Murderers would be quickly apprehended. Neither party was permitted to enter the villages of the other bearing arms. Those signing from Pavonia were Jacob Stoffelsen and Jan Evertsen Bout. The first Indian war, which had lasted eighteen months, had severely crippled the scattered *bouweries* on the west bank.

The last Dutch director-general, Peter Stuyvesant, arrived in Manhattan in May 1647. The Indians, again dissatisfied with their presents, were threatening to go to war. Stuyvesant called upon the people to select eighteen delegates to consider the matter. Among the "best citizens" chosen was Michiel Jansen of Pavonia, a newcomer who had recently purchased land from Bout. Stuyvesant's attitude was more conciliatory than that of Kieft and no serious trouble occurred for nearly two years. When, in March 1649, one Simon Walinges of Paulus Hook was robbed and murdered, Stuyvesant again counseled peace. The tribes, expecting revenge, sought a hearing at Manhattan. They explained that the outrage was a private crime, committed by an avaricious native, probably from south of the Raritan. Stuyvesant, his hands full with the Swedes on the Delaware, contented himself with exchanging presents with the sachems. Until 1655 there were no further incidents on the west bank.

During this period, 1643 to 1655, a number of Dutchmen settled the area between the Hackensack and the Hudson. Jacob Jacobsen Roy, the gunner of New Amsterdam, took up land at Constable's Hook; Claas Carstensen, at Cavan Point, farther north; Maryn Andriaesen, at Weehawken; and Dirck Zieken, at Communipauw. Later, in 1654, at least ten tracts of twenty-five and fifty morgen were taken up in the area between Communipauw and Kill van Kull. Soon farms flourished at Hoboken, Horsimus, Paulus Hook, and Communipauw.

In 1655, however, desolation struck Pavonia again. In September Stuyvesant was occupied on the lower Delaware in expelling the Swedes, who since 1638 had been colonizing there. At New Amsterdam an Indian girl was shot at night while stealing peaches from the garden of Hendrick Van Dyck, the *schout* (sheriff), whose farm lay just south of the present Trinity Church. Without warning, a revenging Indian band of 500 men, later increased to 1,400, attacked New Amsterdam. Though they were soon driven off, they crossed the Hudson and laid waste to Pavonia. With the exception of Michiel Jansen of Communipauw, all who did not flee were killed. The crops and cattle throughout the whole area were destroyed. After three days of terror, the expedition moved on to Staten Island and repeated the destruction. More than 100 Dutch were killed, 150 were taken captive, and 300 were deprived of their homes. Twenty-eight *bouweries* and a number of plantations were destroyed. All the savages of the district participated in the work of vengeance. The settlers fled to Manhattan, where most of them remained for five years. When Stuyvesant returned from the Delaware, he arranged to ransom the captives, who by agreement would be delivered at Paulus Hook. Tired of prevarication and delay, he delivered an ultimatum, whereupon the chiefs began to bring in their prisoners. Twenty-eight were ransomed, and for seventy-eight rounds of powder and forty bars of lead, another twenty-eight. The second general Indian war ended leaving not a single white resident west of the Hudson.

In January 1656, Stuyvesant succeeded in gaining the council's acceptance of several protecting ordinances. Henceforth, as in early New England, settlers must reside in compact villages. All now recognized the impossibility of providing every farmhouse with guards. To protect such settlements from fire, it was forbidden to use straw or reeds for roofing or to construct chimneys of wood. During the summer, when it was learned that the Tappaen Indians were about to go on the warpath, the ordinance was reaffirmed. This restrictive code ended settlement, for the time being, in Pavonia.

Stuyvesant's policy contemplated measures for checking and clearing the Indian title to lands settled or earmarked for settlement. In January 1658, as part of this task, Stuyvesant renegotiated title to all lands west of the Hudson and obtained deeds signed by or in behalf of all the tribes in that district. The territory thus validated extended from Weehawken to Secaucus on the Hackensack, southward to Kill van Kull, the tip of old Bergen County, and northward along the New York Bay shore and the Hudson to Weehawken. The purchase price was eighty fathoms of wampum, twenty fathoms of cloth, twelve kettles, six guns, two blankets, one double kettle, and a half-barrel of strong beer. The Indians agreed to relinquish this territory, in which few of them permanently resided, and not to return unless the director-general and his council consented. Jan Bout, a former resident of Pavonia, was, as a member of the council, one of the signers of this treaty.

As soon as the treaty was made known, Stuyvesant received a petition, signed by Michiel Jansen and six other former residents of Pavonia, asking permission to return to their beloved "Gemoenepa." In view of the cost of restoring their *bouweries* and plantations, they requested that they be relieved of tithes, taxes, and similar burdens. Stuyvesant and his council treated the petition liberally, granting an exemption for six years. They required the settlers to group themselves into villages of at least ten or twelve families for protection. The petitioners accepted the conditions, but neglected to organize as a community. After two years, in February 1660, the director and his council ordered the inhabitants to move their houses, goods, and livestock to the village site nearest them, or, if no site had been chosen, to select one offering a natural defense. Persons failing to obey this order would have their goods confiscated. Stuyvesant assured the inhabitants that his agent would grant suitable lots to all who applied. In March, Tielman Van Vleck and Peter Rudolphus sought permission to settle a village "on the maize lands" behind Communipauw. When permission was withheld, they applied again. In August their third petition was granted. The director and his council would first approve the site, thus assuring themselves of its suitability for defense. Persons drawing for and receiving lots were obliged to occupy them within six weeks, sending at least one person able to bear arms, and to advance the sum of twenty florins in case the owner was not present when the village levied its first taxes.

Van Vleck should be regarded as the founder of Bergen, "the village on the hill," named for Bergen op Zoom, a fortified town near Antwerp. Originally from Bremen, Van Vleck studied law under a notary in Amsterdam, then came to New Netherland in 1658 to practice law. He became, in August 1661, the first *schout*, or chief administrator, and president of the local court of Bergen.

The village of Bergen, the first permanent settlement in New Jersey, was laid out between August and November 1660 by Buyten Cortelyou, a surveyor, who had made the first plan of New Amsterdam. Its plan was quite simple—a square, 800 feet on each side, intersected by two main streets, with a street around the entire bounds bordered by palisades. In the center was a public plot, 165 feet by 200 feet. Each quarter contained eight lots, 32 in all. Bordering on the palisades were the "outside gardens," which accounted for 27 more lots. By May 1661 all the interior lots were occupied. The outside lots were larger since normally the inside lots could not support farms.

A lease recorded in April 1661 reveals that the village had already adopted a fencing ordinance but that no attention was paid the order forbidding the use of reeds for roofing. The lessee agreed to cut and plane the timber for the construction of a house thirty feet long and a barn fifty feet long and to supply the reeds for roofing. The lessor provided the joint use of a plow and a wagon and cows and oxen. The rent for the first two years was fifteen pounds of butter from each of two cows, and for the last four years, four hundred guilders in coin or good-grade wampum.

Before Van Vleck was appointed *schout* in August 1661 and commissioned a month later, all the functions of local government were managed by either the director-general and his council or the burgomasters (aldermen) of New Amsterdam. As *schout*, Van Vleck was enjoined to bring to justice all violators of the laws and ordinances. The inhabitants were commanded to aid him in the performance of his duties whenever called upon. In September the director and council, in view of the increase of population, erected an inferior court of justice at Bergen. All judgments were subject to reversal and appeal to the director and council. The *schout* would convene the *schepens* (magistrates) and preside over the meetings. The director and his council appointed Michiel Jansen, Herman Smeeman, and Caspar Stynmets as *schepens*. Smeeman, born in Westphalia, was living in New Amsterdam by 1645. In 1657 he purchased a farm for nine hundred florins from Jansen at Communipauw, and when the settlers returned to Pavonia after the second Indian war, Smeeman was among them. Later, in 1663, he was one of three men appointed by Stuyvesant to fortify Communipauw, and in 1664 he was one of three men called from Bergen as a member of Stuyvesant's *landtag* to consider the sad plight of New Netherland. It is not known when Caspar Stynmets settled in New Netherland, but he was living at Horsimus in 1652. Driven out by the Indians in 1655, he became a tavern keeper at New Amsterdam. But he and his wife, the widow of Jacob Stoffelson, were also drawn back after the second war. He was a deputy from Bergen in the first and second assemblies of proprietary East Jersey in 1668, and during the second Dutch occupation in 1674 he was a member of the council of New Orange. He was engaged in farming the West India Company's farm at Horsimus.

The *schout* and *schepens* of Bergen court tried without appeal cases of fifty guilders and under; cases over that amount were appealed to the director-general and the council. A majority decision was construed as a unanimous verdict, but dissenting magistrates might enter the reason for their dissent on the record, though it could not be made public. Court was held every two weeks except during the harvest season. Every effort was made to keep the charges cheap and the pursuit of justice swift. The president received three guilders per meeting, each *schepens* was paid fifty stivers. Small fees were paid the court clerk and messenger. Major crimes, such as bloodshed, theft, robbery, smuggling, adultery, and whoredom, were referred to New Amsterdam, but minor offenses, such as brawls, slander, scolding, striking with the fist, and the drawing of weapons, were left to the Bergen court, where the *schout* acted as prosecutor. If town ordinances were needed, the court submitted recommendations for the approval of the director and council. Such ordinances pertained only to local matters, such as surveys, highways, outlets, posts, fences, the laying out of fields and orchards, or the building of public works such as churches and schools. The members of the court were admonished to observe sedulously the laws of Holland and New Netherland. No local regulations could be posted without the approbation of the director-general and the council. Since the membership of the court changed gradually each year, as in Holland, the magistrates were instructed to be on the lookout for men qualified to succeed them.

In 1662, *Schepens* Jansen and Smeeman were replaced by Engelbert Steenhuysen and Gerrit Gerritsen. The former, a tailor by trade, was a native of Westphalia; he arrived in New Amsterdam in April 1659. With Smeeman, he represented Bergen in the *landtag* of New Netherland in 1664. Licensed to teach school at Bergen in October 1662, he was the first schoolmaster in New Jersey. Steenhuysen had been appointed town clerk and schoolmaster by Michiel Jansen, but resigned because the *schepens* of Bergen would not exempt him from all taxes, as in Holland. The *schepens* appealed to New Amsterdam against Steenhuysen, who, they claimed, as the owner of a house and a double farm, was well able to provide the sustenance of a soldier and pay the other taxes. The council ruled that the schoolmaster must fulfill his contract, whereupon he was appointed *schepens*! In 1663 Balthazar Bayard and Adolph Hardenbrook replaced Gerrit Gerritsen and Engelbert Steenhuysen.

In March 1664, Balthazar Bayard was appointed *schout*. His grandfather, a professor of theology at the University of Paris, had fled to Holland during the religious persecutions. His son married the sister of Peter Stuyvesant, and their son Balthazar was clerk in the office of the secretary of New Netherland from 1654 to 1660. He then moved to Bergen, where he remained until he returned to New York in 1668. Bayard also represented Bergen in the first and second East Jersey assemblies in 1668.

In September 1661 Peter Stuyvesant and his council ordered the inhabitants of Bergen to take out patents within three months for the lands they held or claimed. Then, without fear of altercation, they were able to distribute the remaining lots to those seeking them. All lots at Bergen were given free to those settling there. In January 1662 Van Vleck and his court, to relieve those driving their cattle outside the palisades to water them, ordered a public well erected on the square for the accommodation of the cattle owners. The court messenger notified all the inhabitants to appear on a certain day to assist with the building. The director-general and his council ratified this order, levying fines of five guilders a day on those who were absent. This well, whose water was poured into cattle troughs by a sweep, was used until the beginning of the nineteenth century.

In November 1663, still menaced by unfriendly Indians, the residents of Bergen brought pressure upon the director and council to penalize nonresident owners. Those who were absent and yet failed to "plant" a man to aid in the defense of the village were charged with having violated the charter. Others had failed to keep their portion of the watch, thus penalizing the conscientious, who were "so much fatigued that they cannot any longer stand at their posts." The settlers refused to continue on guard unless the absentees provided a man for each lot. The director's council quickly decreed that within twenty-four hours all owners must provide a man to keep watch and ward on pain of having their lots expropriated and granted to others. "Let every one be hereby warned for the last time," concluded the order.

The people of Communipauw were not required to move to Bergen, since it was intended to erect a fortified village there also. In September 1660 Jacques Cortelyou was ordered to survey it and lay it out into village lots. These lots fronted on the bay and had a depth of two hundred feet. The village was erected within a small area, and palisades were set out. There were some shirkers; hence in February 1661 *Schout* Van Vleck and the other members of the court petitioned that the director and his council issue an order commanding that all participate in making these essential improvements. The council specified that the palisades must be of proper thickness and stand six or seven feet above the ground. Any settler who neglected or refused to aid in erecting the fortification would be fined £2 Flanders, a heavy penalty. Later a wagon road would be built from Communipauw to Bergen.

The revived settlements on the west bank aroused interest elsewhere. Egbert Sanderson, of Midout, and Jan Theunissen, of Amersfoort, Long Island, applied for lots and permission to erect a mill in Communipauw. Horsimus Creek, the small stream on which it was erected, was known thereafter as Mill Creek. Sanderson also applied for permission to erect a sawmill in Bergen, but there were no lots available. The *schepens* gave him permission to purchase land from Jan Everse Karseboom, and the mill was later built on Showbank Brook, a branch of Mill Creek. In June 1663 the *schepens* were again warned to fortify Communipauw, though the Indian danger was not thought to be as great as formerly. Nevertheless, during the Esophus War of 1663 an annalist recorded that two Dutchmen were killed between Communipauw and "Maize Land," as Bergen was called during its earliest years because it was laid out on an Indian cornfield.[2]

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[2] W. W. Clayton, *History of Bergen and Passaic Counties* (Philadelphia, 1882), 32-38, 89-93.

CHAPTER II

The Proprietary of Berkeley and Carteret

With the restoration of Charles II in 1660, anti-Dutch elements in Britain found a leader in the King's brother, James, Duke of York. The Dutch supremacy in overseas trade was a source of continuous irritation to English merchants. By 1650 the carrying trade of the world was in Dutch hands. England's Prohibitory Act of 1650 and the Navigation Act of 1651, directed in part against Holland, had little influence upon Dutch commercial prosperity and gave small consolation to England merchants. The Dutch were pressing everywhere; even in the North Sea, Dutch fishing boats were trespassing on English waters. Their merchants were trading with the British West Indian colonies of Barbados and the Leeward Islands. Here not only did they supply provisions at a cheaper price but they brought welcome knowledge of sugar raising from Brazil and of tobacco growing from Essequibo and Surinam. On the Guinea coast of Africa the Dutch West India Company was competing with the English for control of the slave market. Little wonder that the English merchants sought aid from whatever quarter it might come.

James, Duke of York, entered the arena in behalf of the English commercial interest at the very beginning of the Restoration. Appointed lord high admiral in January 1660 and acting in conjunction with the navy board, he supervised the operations of the navy. With great energy he set to work putting the ships in proper condition, scrutinizing expenditures, eliminating waste, and seeing that contracts were fairly awarded and honestly executed. He was no figurehead, for he worked "without scruple" to advance England's interests at sea and in trade. James accompanied the fleet at the outbreak of the second Dutch war in April 1665 and was thus in a position and in a mood to act upon the grievances of the merchants and others against the Dutch. Associated with the Duke at the navy office were Lord John Berkeley; Sir William Penn; Sir George Carteret, treasurer; Sir William Batten, surveyor; and Samuel Pepys, clerk.

Outside the navy office the Duke built up a powerful group of traders, merchants, diplomats, and members of Parliament, all of whom were determined to break Dutch control of the seas. James entered freely into their schemes and activities. In 1660, with the Duke as its active head, the Company of Royal Adventurers (later the Royal African Company) was formed. Its designated sphere of operations extended from Cape Blanco to the Cape of Good Hope in Africa, and its charter gave it a monopoly of Negro slaves, ivory, redwood, hides, and other commodities valuable to England. To achieve commercial control in North Africa the Morocco Company was organized the next year with the Duke and Lord Willoughby at the head. It received a charter giving it a trade monopoly from Casablanca to Cape Blanco, from which point of vantage it proceeded to harass Dutch ships to the extent of embarrassing King Charles.

Among the conspirators against the Dutch was an American colonial, Sir George Downing, minister to the States General of Holland. He was a Harvard graduate, the son of Emmanuel Downing and the nephew of John Winthrop, Sr. He, too, was obsessed with the idea of driving the Dutch from the colonial field and from the overseas trade. An indefatigable speaker and pamphleteer, Downing made little impression upon the King and his minister, Lord Clarendon, but he and others like him received encouragement from James.

While desiring not to provoke a war, the King himself expressed a desire "to improve the general Traffic and Trade of the kingdom and upon all occasions conferred with the most active Merchants . . . and offered all he could contribute to the Advancement thereof." Parliament, too, worried about the declining trade and inquired carefully into the causes of it. The merchants, in 1663, came before the special council of trade to lay before it a report on the reasons for the decline and to propose remedies. They emphasized the importance of overseas possessions, not as colonies, but as adjuncts to trade.

Certain to come to the notice of the anti-Dutch faction was New

Netherland, sprawling from Connecticut to Maryland—a great wedge of land controlling the entrances of the Hudson and the Delaware. The Dutch conquest of the Swedes on the Delaware in 1655, the border outbreaks that accompanied New England's efforts to reach the Upper Hudson, and the migration of New Englanders to Long Island afforded possibilities. It was a strange fusion of personalities and incidents that led to the sudden decision that New Netherland must be taken.

Massachusetts merchants like George Downing and Samuel Maverick had for years protested the efforts of the Puritan Commonwealth to regulate and to circumscribe trade. When Downing had left Massachusetts for England, he was convinced that the colonial government was disloyal and needed to be taken in hand and also that the Dutch must be got rid of. He was soon in a position to aid in both situations. Maverick, a staunch Anglican amid Puritan saints for whom he had little regard, had sensed the possibilities of the triangular trade as early as 1641. Immediately after the Restoration he wrote to Lord Clarendon, furiously condemning the magistrates of Massachusetts, who, he believed, had not only deprived the populace of their rights as Englishmen but had no regard whatever for the interests of the home country. All that was needed to bring them to heel was to debar them from all trade for a few months.

Maverick appeared before the council for foreign relations and urged the appointment of a royal commission to deal with the New England colonies and to plan for the conquest of New Netherland. He volunteered to serve, and later did serve, on the commission. Lord John Berkeley was president of the council, which included a number of merchants and promoters. The ubiquitous adventurer and promoter John Scott was in England in 1662 and 1663 seeking to obtain for the Atherton Land Company title to lands on Narragansett Bay that belonged to Rhode Island and to press his interest in Long Island. This wily freebooter also took occasion to represent to the council the grievances of the English inhabitants of Long Island. After his return to America he transmitted a report from the "enslaved inhabitants of New England," which was referred to Berkeley, Carteret, and Coventry. These men, now instructed by the reports of Scott, Maverick, and others, together with a "narrative" setting forth the relation of the King's title to the Dutch occupancy, the state of New Netherland's trade, the strength of New Amsterdam, and the best way to eliminate the Dutch, recommended on January 29, 1664, that immediate action be taken.

Events moved swiftly since the climate of opinion was favorable. Already England had passed the Navigation Acts, had granted the territory between Virginia and Florida to eight friends of the Stuarts, and had determined to retain Bermuda. The din set up by Downing and the merchants focused attention upon foreign trade and its advantage to the crown in increased customs. By the end of February two decisions had been reached: to send a royal commission to deal with the New England colonies and to send a fleet to take over New Netherland. Funds were allocated, ships made ready, men mustered, and arms, ammunition, and equipment assembled. On April 21 the House of Commons resolved that because of indignities to His Majesty and injuries done the merchants "it would support the king with life and fortune against all opposition." Thus the King, the Duke, the merchants, and Parliament were of one accord.

The members of the commission were Colonel Richard Nicolls, head, Colonel George Carteret, and the Puritan-hating Samuel Maverick. Their principal business was to hear the grievances of the inhabitants of New England, especially those of Massachusetts, and to restrict all local prerogatives to those specified by the several charters. The commissioners were vested with powers calculated to bring the whole of New England more directly under the king's authority. For example, by expunging several patents, New Hampshire and Maine could be transformed into a single royal colony, thus freeing this area from Massachusetts.

Now took place one of the really incredible events in the history of the American colonies. King Charles, seven weeks before he appointed the royal commission, agreed to grant the Duke of York an astonishing assortment of lands extending from the St. Lawrence to the Delaware. Some were held by a tenuous but defensible title, others had been given away under previous royal grants, and still others were to be acquired by conquest. Included were Maine, Martha's Vineyard, Nantucket, Long Island, and the area between the Connecticut and the Delaware. Long Island was included by virtue of an uncompleted purchase by the Duke from the Earl of Stirling and Lord John Berkeley. Later the west bank of the Delaware was annexed, over the strenuous protest of Maryland. The Duke's petition for a grant was drawn up, with the advice of lawyers, during the first days of March 1664, and the essential steps "occupied but four days, an unprecedented event."

The King did not inform the colonies of the disposition he had made of the yet-unconquered territories or of the other lands he considered his right to give away. English officialdom, even the chancery, seemed entirely indifferent to what was taking place. Rumors reached the New England colonies that were confirmed only by a request for assistance. Massachusetts, in particular, was told of the proposed reduction of New Netherland and taken to task for lack of cooperation. That colony was little moved. The notion of obeying the King's command or of admitting the right of royal commissioners to interfere in her affairs was anathema to Massachusetts.

The main object of the expedition was to reduce New Netherland to "an entyre submission and obedience" on the ground that the Dutch were interlopers on English territory. Great secrecy was maintained. Indeed, in October 1664, several months after the conquest, Downing, in Holland, denied that New Netherland had been taken, although he knew the truth. Four frigates reached Boston in the latter part of July, and on August 18 they were in New York waters. Colonel Nicolls, by proclamation, offered favorable terms to the Dutch if Director Stuyvesant would immediately surrender the forts and towns throughout New Netherland. Stuyvesant, practically forsaken by the Dutch West India Company, played for time, but he was in no position to resist such a formidable force. The English took Gravesend, reduced Staten Island, blockaded New York Harbor, then took stations before the fort at New Amsterdam. There was little ammunition in New Netherland, either at Manhattan or at Fort Orange; water and provisions on Manhattan were deemed insufficient for a siege. Only 150 soldiers and fewer than 300 men capable of bearing arms were available.

Arrayed against the Dutch were 400 soldiers and a group of English volunteers from New England and Long Island, among them several colonial notables, including Governor John Winthrop, Jr., of Connecticut; Captain John Pynchon, the Springfield merchant who represented the Massachusetts General Court; and John Scott, just freed from Hartford jail for having fomented rebellion at Hempstead and elsewhere on Long Island. When told abruptly by the English that they were there to execute orders, not to discuss them, Stuyvesant, realizing the hopelessness of the situation, gave up without firing a shot. The treaty of surrender was completed on September 7 and was signed for the Dutch by their preacher Dominie Megapolenses and five burghers; for the crown by Nicolls, Carr, and Cartwright; and for New England by Pynchon, Winthrop, and several others. Stuyvesant could not bring himself to sign the instrument. Shortly afterward, Cartwright took Fort Orange, and Captain Carr took Fort Casimir (Newcastle) on the Delaware. New Amsterdam was named New York; Long Island, Yorkshire; and what soon became New Jersey, Albania. The conquest of New Netherland was complete. On April 2, before the conquest, James had named Colonel Richard Nicolls, a faithful follower, as deputy governor of his then partially nonexistent dominion, and Nicolls remained in New York to carry out his assignment.

The Duke's deputy governor ruled over territories more scattered than those of New Netherland, though, unlike the latter, their boundaries were explicitly set forth. Furthermore, the powers granted the Duke were specific, whereas those of the Dutch West India Company had been debatable at every point. These advantages rendered administration quite simple at the start. The Duke's territories embraced not only the lands of the Hudson, the Dutch villages on western Long Island and Pavonia, and the hamlets on the Delaware above and below Newcastle, but all of Long Island and New Jersey, eastern Maine, the coastal islands, except Block Island, from Cape May to Cape Cod, and by virtue of Carr's conquest, the west bank of the Delaware to the Maryland border. This extenuated holding lacked any semblance of unity. Maine and the islands were physically isolated; New York harbored small pockets of Dutch at Manhattan and Albany; Albania contained minute settlements at Pavonia; and the Swedes and Dutch in the Newcastle district were remote. Long Island, "very poor and inconsiderable," was inhabited by Dutch and English; settlers in the west made a meager living as farmers, while those on the eastern tip were occupied with fishing and whaling. In the one sizable population center, comprising Manhattan and Westchester, three-fourths of the inhabitants were Dutch.

Such was the feudal domain of James, Duke of York. By virtue of the shortest colonial charter on record, he enjoyed full and absolute authority. Because he was a member of the royal family, few restrictions were placed upon his powers of governance. He could make all laws and ordinances, providing they were in conformity with the laws of England, control all appointments, and determine all judicial matters except cases of appeal that were reserved to the king. Of more interest to the Duke was the potential value of his lands and his prospects for trade. Lands were held in free and common socage subject only to the feudal obligation to render forty beaver skins yearly should they be demanded by the King, his superior lord. The Duke, then, enjoyed full power to grant and assign all lands and to fix the customs dues. He was empowered to deal with insurrection, rebellion, and mutiny, and in matters pertaining to the welfare of the inhabitants he might exercise discretion where the charter was silent. He could ignore all prior patents and grants whose boundary claims conflicted with his. As Charles M. Andrews wrote: "Literally interpreted, the duke's charter contains the most extreme expression of proprietary authority to be found in any of the feudal grants of soil and government in America." Yet the Duke's instructions stated that the inhabitants were to be treated "with all the humanity and gentleness that can consist with honor and safety." His deputies were thus obligated to keep the welfare of the inhabitants in mind. The Duke was hopeful that his plantation would grow and that trade would flourish.

The successive deputy governors—Nicolls, Lovelace, Andros, and Dongan—insofar as the terms of the charter permitted, did maintain a regard for the interests of the inhabitants. There were disagreements, to be sure, but the deputy governors more often than not took pains to explain and defend their acts and decisions. Thus, though the government was cast in an executive mold, there was no despotism. Since the charter did not provide for a local legislative body, no popular assembly was convened until 1683.

The Duke's interest, as mentioned, was material and financial. He expected high returns on his expenditures in America. Indeed he took a personal interest in the whole undertaking—directing policy; reading and answering correspondence either himself or through his personal secretary, Sir John Werden; issuing orders and instructions; and keeping himself posted on rents, revenues, profits, and perquisites. He appointed his own customs officers, established the customs rates for exports and imports, and specified that payment should be made in cash or goods ad valorem. In 1674 he formed an advisory council made up of Sir John Werden, Sir Allen Apsley, his treasurer, John Lewen, his auditor, Sir Francis Winnington, his attorney, and Sir John Churchill, his solicitor general. They advised him regarding the recommendations of his deputy governors. James rarely, if ever, acted alone in matters pertaining to his proprietary.

The Duke never received what he regarded as his just due from his holdings in America. In New York, as in Maryland and later in the Jerseys, the Carolinas, and Pennsylvania, proprietaries were unpopular; the remitting of taxes, dues, rents, and customs to an absentee proprietor was never relished. The Duke's proprietary was composed of people who never ceased to regard themselves as freemen entitled to the rights of Englishmen; and who wished to be consulted on such vital matters as laws, ordinances, and taxes. The deputy governors owed a primary allegiance to the Duke, yet they dared not ignore the needs and desires of the colonists. The stage for conflict was set by this duality of interest. The collectors, for instance, soon discovered that they could not enforce arbitrary regulations upon unwilling merchants and planters.

Governor Nicolls ruled over Albania from September 7, 1664, until August 1, 1665. But his several acts there were regarded as invalid by many of the early English inhabitants of New Jersey, since the Duke on June 24, 1664, even before it had been taken from the Dutch, had granted Albania to his friends Lord John Berkeley and Sir George Carteret. Since Nicolls did not learn of this transfer until the arrival of the proprietary governor, Philip Carteret, in August 1665, he can hardly be blamed for making efforts to encourage settlement west of the Hudson, as opportunity afforded.[1]

On June 23 and 24, 1664, by virtue of a lease and release, James granted the lands between the Hudson and the Delaware to Lord John Berkeley and Sir George Carteret. The affection that both Charles II and James felt for Carteret is well known, and it is not surprising that they conferred many favors upon him. He had followed Charles to France and, after long years, returned with the restored King to London. He became vice chamberlain, a member of the privy council, and treasurer of the navy, his former service. As early as 1649 Charles wrote him: "I can never forgett the good services you have done to my father and me and if God bless me you shall find I do remember them to the advantage of you and yours; and for this you have the word of your very loving friend Charles R." Until his death in 1680 Sir George continued in royal favor. In 1668 he was appointed a member of the lords of trade, and in 1673, one of the lords of the admiralty. He was a member of the House of Commons in 1661, representing Portsmouth, but in 1669 he was expelled upon a charge of embezzlement for carelessness with the navy accounts. One writer alludes to him as "Carteret the rich," but the charge that he had robbed the King of £300,000 is spurious. He confided to Pepys that his estate had advanced from £50,000 to £65,000 from 1660 to 1667 mainly from privateering and from the several lucrative offices he held. New Jersey was named in his honor after the place of his nativity.

Lord John Berkeley was another retainer of the Stuarts, although not as highly esteemed as Carteret. He was selfish, vain, lacking in tact, and a place seeker. Before the Restoration he had served with the royalist army and spent a long period of exile with the Stuarts. With the Restoration he became a member of the privy council and one of the masters of ordnance. In 1670 he was appointed lord lieutenant of Ireland, where he served for two years, and in 1675 he was appointed with two others as ambassador extraordinary to the Congress of Nimmigen. Both Carteret and Berkeley were among the eight proprietors of the Carolinas.

At the beginning of 1666 Governor Nicolls, quite dismayed, wrote a long protest to the Duke, stating that James could not possibly understand the harm that was being done by giving away New Jersey. This land, in Nicolls' judgment, was "the most improveable part" of his patent and could contain twenty times as many people as Long Island and the rest of the Duke's territory. Not only were these lands great in extent but the soil was rich in many places; there were excellent rivers, especially the Hudson and the Delaware, a fine seacoast, and in addition, the promise of rich mines. He felt certain that neither Berkeley nor Carteret knew how important this area was to the Duke; in fact he pointedly suggested that Colonel John Scott, chagrined at not obtaining it for himself, had contrived that it be given to Berkeley and Carteret so that the Duke would gain no benefit from it.

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[1] Andrews, *Colonial Period*, III, 34-68, 96-107.

Nicolls also stated that already he had approved several purchases of land by settlers from the Indians, so that the lands west of the Hudson, to which he had given the name Albania, might be rapidly peopled. He strongly advised that the grant be retracted and that Berkeley and Carteret be given instead a grant along the west bank of the Delaware. Writing again in May he urged that New Jersey be restored to New York and that Berkeley and Carteret be granted a strip of land twenty miles wide on each side of the Delaware. In 1668, Maverick, then living in New York in a house given him by the Duke, wrote Lord Arlington, an intimate of James, that the grant to Berkeley and Carteret had taken away "a vast tract of the most improveablest land within His Royall Highness his patent," which included the Dutch villages on the west bank of the Hudson. The Duke's lands about New York were constricted to within sixteen miles of the Hudson River. Long Island was poor, and, in addition to New York City, only the Dutch towns of Esopus (Kingston) and Albany were left. "I suppose," wrote Maverick, that when Lord Berkeley was given the grant, "it was not thought he should come so neare this place, nor were ye inconveniencyes of it known or considered." But these appeals, direct and indirect, failed of their purpose. James did nothing beyond restoring Staten Island to New York.

Berkeley and Carteret assumed that they had been granted the right of government with their patent and inserted it into their Concessions and Agreements, which were published to interest settlers in coming to New Jersey. Actually, the grant from the Duke was a grant of the soil and carried no powers of government. The Duke, as it was established categorically years later, could not delegate to others a power that was inherent in the king. Even though the grant to him might be legal, it could not be passed on to a third party. Neither the King nor the Duke was sensitive upon this point, but it was to be a source of unending trouble and conflict. The phrase in the grant from the Duke enabling Berkeley and Carteret to act "in as full and ample manner" as the Duke, "can refer to nothing more," wrote Charles M. Andrews, "than the profits from the land and not to taxes or customs dues which were collectible only by authority of government." Much of the difficulty arose from the King's and the Duke's insistence, over the protests of high crown authorities such as the committee of trade and plantations, the treasury, the customs, and the lords justices, that Berkeley and Carteret and their successors did have the power of government.

The Concessions and Agreements of February 10, 1665, were intended to attract settlers to the colony, to promote trade, and to yield the proprietors an income from quitrents from the sale of lands.[2] Historically they are interesting in that they are practically identical with the first Carolina Concessions promulgated only six weeks before. Whatever liberality they embody is attributable to the demands of dissentient Barbados planters who were planning to immigrate to the Carolinas. These men requested the participation of all freeholders in the election of deputies to a general assembly, freedom of trade, immunity from customs, and liberty of conscience. Ironically, the Carolina Concessions had little influence because of the untimely end of the Cape Fear settlement in 1667, but those of New Jersey were put into effect immediately.

As provided by the Concessions, the governor would appoint from six to twelve councilors or assistants and administer the province subject only to the regulations and instructions laid down by the proprietors. The chief secretary or register, appointed either by the proprietors or by the governor, would keep a record of all public affairs, all grants of land by the proprietors, and conveyances of real estate by the inhabitants. Such conveyances should first be signed by the grantor or lessor, the signature constituting a warrant for proper registration. The surveyor general would lay out lands for the proprietors and others, and all surveys would be recorded and certified. The governor and council were empowered to suspend either the secretary or the surveyor general if he were suspected of any misdemeanor.

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[2] In feudal times lands were held subject to the payment annually of certain goods and services. During the fifteenth century men began to make payments in money in lieu of these customary obligations. By the payment of such a sum called a quitrent, a man (usually a freeholder or a copyholder) was able to quit himself of all other feudal obligations.

The governor, council members, members of the assembly, and all other officers were required to swear allegiance to the king and faithfulness to the proprietors, to subscribe to discharge the duties of their office, and to "doe equall Justice to all men according to their best skill and Judgment without corrupcon or affeccon." All persons taking the oath of allegiance and vowing faithfulness to the proprietors would be admitted as settlers and as freemen of the province, entitled to all freedoms and immunities. The guarantees of religious freedom were strong and specific. No one "at any time shalbe molested, punished, disquieted or called into Question for any difference in opinion or practice in matters of Religious concernements, who doe not actually disturbe the civill peace," and, subject to the same restriction, any person would "truly and fully have and enjoy his and their Judgments and Consciences in matters of Religion." Neither the proprietors nor their heirs might abridge in any way "the Generall clause of Libertie of Conscience." The general assembly would be at liberty to appoint ministers and provide for their maintenance or permit any group to maintain "what Preachers or Ministers they please."

The general assembly would consist of the governor, council, and, initially, twelve representatives. At first the representatives would be chosen from the whole body of the freemen; later, after counties or other local divisions were set up, they would represent such districts. Elections, authorized by writs under the proprietary seal, would be held annually.

The assembly would designate the time of meeting and adjournment and establish the number constituting a quorum, though it must not be less than a third of the whole. It could enact and repeal laws for the province. Such laws must not be contrary to the laws of England, nor contrary to the interests of the proprietors or to the Concessions, and under no circumstances might they violate the article on the liberty of conscience. Once passed and publicly announced, a law would be in effect for one year; and once confirmed by the proprietors, it would remain in effect unless repealed.

The assembly was instructed to constitute courts, define the jurisdiction of each, designate the several officers and the number of each, fix the fees and salaries, and set forth the penalties for a breach of trust. It would lay equal taxes and assessments upon the inhabitants of the several divisions, but it might not tax proprietary lands before they were settled and improved. The assembly was enjoined to raise money in such manner as "shall seem most equall and easie" for the support of the government and the defense of the province. It was empowered also to erect manors, though none were created in East Jersey, set out and name convenient divisions, and designate ports. It would also constitute towns and villages, charter and incorporate them, and, if necessary, arm them for defense. It was instructed to organize a militia under the command of the governor and to take precautionary measures against Indians, foreigners, and mutineers.

With respect to land distribution, the assembly also enjoyed large powers. Subject to certain conditions, it might prescribe the amounts of land granted to heads of families and indentured servants and ordain rules for laying out lands and awarding lands by lot. In addition to making financial provision for the charges of government, the assembly would provide for the collection of quitrents by the constables, and for their payment to the proprietors' receiver general. It was admonished to take such additional measures as seemed necessary "for the good property and settlement of the said Province."

The Concessions spelled out the numerous duties of the governor and his council: to organize the courts, to enforce the laws, to commission judges and other civil officers, to punish offenders as the courts ordained, to take appropriate measures for the safety and defense of the province, to forward copies of the legal proceedings in case of reprieve, and to make warrants and issue grants of land according to the instructions contained in the Concessions and in consonance with the prescriptions of the assembly. The governor and the council were warned not to impose any tax, custom, or duty other than that imposed by the assembly. It was also their duty to see that land held unchallenged for seven years after legal survey was not tampered with by any provincial officer. The grazing of cattle on unallocated or unsurveyed lands was not to be regarded as trespass, provided the custom of commons was not claimed.

The inducements to settlers were necessarily very attractive, for this was a promotional venture. Heads of families arriving by January 1, 1666, if armed and bringing provisions for six months, would be granted 150 acres; 150 acres would be added for each manservant, and 75 acres for each "weaker" servant or slave over fourteen years old. Each servant would be entitled to 75 acres for his own use after the expiration of the term of servitude. For those arriving at later periods the allotments were gradually reduced to 120 and 60 acres, to 90 and 45 acres, and to 60 and 30 acres, for master and servant respectively. These grants were made on condition that they be taken up by warrants confirmed by the governor and council in accordance with the method set forth in the Concessions and in the governor's instructions.

Lands would be divided into tracts of from 2,100 acres to 21,000 acres, except in or near the towns and villages. But one-seventh of each tract must be reserved for the proprietors. As to the method of alloting land, the governor and council would first issue a warrant to the surveyor general instructing him to lay out lands for persons entitled to them; then the surveyor would certify to the register that the land had been surveyed for a particular person on such a date and in such amount. Such certification would be entered in a book of purchasers, arranged alphabetically. The conveyance remained valid as long as the servants were maintained on the land as specified and as long as the quitrent was paid. Hopefully, it was required that half the gold and silver found on the land be given to the proprietors.

In laying out town and villages the proprietors provided highways and streets one hundred feet wide. Grants of 200 acres were set aside, exempt from quitrent, in each parish for the use of the minister sanctioned by the assembly. In the villages also, a seventh part of the land was reserved for the proprietors. The remainder would be sold in the usual way, subject to a quitrent of 1d. or 1/2d.

per acre, depending on the value of the lot. The inhabitants were guaranteed the free use of all inland and coastal waters. Finally, the representatives were given the right to petition the proprietors regarding the governor and the council concerning any grievance, without the consent of these officers.

The instructions to the governor, also issued on February 10, 1665, complemented the Concessions and in some particulars were more specific. At the start there would be six "Councellors and Assistants." The governor and his councilors were empowered "to let, sell and convey land," and do all things "relating or concerning the Government both Civil and Military" by virtue of powers granted by the Duke in his patent. Their acts and decisions must be in accordance with the Concessions. All lands were subject to a quitrent of 1/2d. per acre, first due on March 25, 1670, a significant date.

The general assembly would include both councilors and elected freemen. Its acts would be valid for eighteen months and would automatically become void unless confirmed by the proprietors. To insure a proper working relation, all legislation must be submitted to the absentee proprietors for ratification within a year of adoption by the assembly. It was required also that all acts must have the approval of a majority of the councilors. Moreover, it was lawful for the freeholders to petition the proprietors on any matter relating to the governor and his council "or whatsoever or any Thing they shall desire, without the Consent of the Governor and Council." Finally, the Indians were to be treated with "Piety, Justice and Charity." Such conduct, stated the instructions, "will prove beneficial to the Planters, and likewise Advantageous to the Propagation of the Gospel."[3]

Neither Berkeley nor Carteret had any more intention than the Duke of taking charge of their propriety in person. Immediately they chose as governor Captain Philip Carteret, a distant cousin of Sir George. At the time he was but twenty-six years of age. Philip Carteret left English waters in the *Philip* in April 1665, accompanied by thirty-odd colonists, mainly from the Channel Islands.

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[3] W. A. Whitehead, W. Nelson, F. W. Ricord, eds., *New Jersey Archives*, First Series (Newark, N.J., 1880-1893), I, 1, 3-14, 21-25, 46-48, 54-55, 57-58 (hereafter cited as *N.J.A.*).

This small entourage included some gentlemen and some servants. In May the ship reached Virginia, where Carteret spent some weeks before sailing for New York. It was not until July 29 that the *Philip* reached New York, the first English ship to arrive since the conquest. A few days later she passed through Kill van Kull and anchored off a convenient point soon named Elizabethport in honor of Lady Carteret.

CHAPTER III

Earliest Settlements

Though more than one English settlement was projected in New Jersey while New Netherland existed, none was established. Governor Nicolls initiated settlements there, and Governor Carteret, shortly after his arrival, dispatched copies of the Concessions to Long Island and New England in the hope of attracting immigrants. The first permanent settlements in East Jersey depended upon migration from Long Island, Connecticut, Massachusetts, Rhode Island, and New Hampshire rather than, as in West Jersey, upon migrants from the British Isles. The Scottish exodus to East Jersey did not begin until 1683. Three parent grants —the Elizabethtown patent, the Monmouth patent, and the Newark patent—resulted by 1669 in the establishment of the six towns of Elizabethtown, Woodbridge, Piscataway, Middletown, Shrewsbury, and Newark. These settlements represent the farthest southern extension of the New England town system, for all were cast in the Puritan mold. Small groups of associates were involved in the founding of each, and as in New England efforts were made from the beginning to supply ministers.

Uncertainty regarding the Restoration manifested itself among the Puritans living throughout New England and also its satellite, eastern Long Island. Indeed some had turned to the government of New Netherland since Stuyvesant had issued a proclamation offering liberal terms of settlement "to all Christian people of tender conscience." But protracted negotiations with the New Englanders broke down upon questions such as prior inspection of the selected sites by the Dutch and control of the Indian trade. John Sticklan (Strictland), living in Huntington, Long Island, made application to Captain Bryan Newton, a member of Stuyvesant's council at New Amsterdam, in behalf of himself and his neighbors for permission to establish a settlement at Achter Kull (Newark Bay). Sticklan was informed finally that he might visit the locality he was interested in and if he and his associates liked it, they might submit a formal application. Nothing came of this attempt. In December 1663 after the English towns of Long Island had declared themselves free of New Netherland, a group of twenty men from Jamaica, Flushing, and Gravesend set out for the Raritan River but were picked up at the mouth of the river. These men, including Samuel Spicer and Richard Gibbins, future Monmouth patentees, had been bargaining for lands with the Menesing Indians of Navesink. They were warned that they were violating the law in not having obtained permission from the Dutch authorities before undertaking an enterprise on too large a scale for mere trading. A contemporary, Daniel Denton, writing in 1670, states that no English settlements succeeded in New Jersey before the conquest, first because the Dutch would not afford settlers protection from the Indians, and secondly because they demanded a tenth of all the produce that the settlers might raise.[1]

With the conquest, the attention of English settlers on western Long Island turned to New Jersey. Within a month after the surrender on September 26, 1664, John Bayly, Daniel Denton, Luke Watson, John Foster, Thomas Benedict, and Nathaniel Denton wrote to Governor Nicolls stating that formerly they had intended to plant on Achter Kull but had been obstructed by the Dutch. Now they wished his permission to purchase and settle there. Hardly a week later they received this permission. With Captain John Baker of New York, acting as interpreter, they met with Mattino and two other Indian chiefs on Staten Island, and for cloth, guns, powder, lead, kettles, and coats to the value of £154 they purchased the land from the Raritan River northward to the "first river flowing into Newark Bay," the Passaic. Inland the tract extended nearly twice that distance. This transfer for what became Elizabeth township was signed on October 28, 1664, nearly six months earlier than the Monmouth patent.

On December 1, Governor Nicolls formally granted this land to John Baker, who had become an associate, John Ogden, of Northampton, and John Bayly and Luke Watson, of Jamaica. Permission was given them to purchase from the natives the land as far north as Snake Hill, on the lower Hackensack. The governor guaranteed the settlers "equal freedom, immunities and privileges with any of his majesties' subjects in any of his colonies in America," and they in turn were required to pay to the Duke an annual quitrent—"a certain rent according to the customary rate of the country for new plantations and doing and performing such acts and things as shall be appointed by his said royal highness or his deputy."[2]

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[1] Daniel Denton, *A Brief Description of New York* (London, 1670). The edition of the Facsimile Text Society (New York, 1937) edited by Victor H. Palsits was used, pp. 15-16.

About the same time Nicolls issued stipulations upon which tracts of land might be granted in the Duke's territories. First, the Indian title must be extinguished by the purchasers; then the purchase must be approved by and recorded in the presence of the governor. No individual had the right to enter upon an Indian purchase without a special warrant from the governor. Group purchasers must set out a town and dwell there together. They were afforded the right to make their "particular" or local laws and to have jurisdiction over all small causes. Each township was free to elect its own magistrates and officers, civil and military. All who took the oath of allegiance to the king and who owned a town lot, provided they were not servants or day laborers, could enjoy the status of freemen. Full liberty of conscience was reiterated. Any township choosing a minister must make its own terms with him, but if a minister was elected by the majority of the householders, every man must pay his proportion. Purchasers were free of taxes for five years after their town plat was set out, but when taxes were imposed, the rates and payments were to be the same as those of all other inhabitants of the province, English and Dutch. All lands taken up in this manner were "free lands" in that the owners might dispose of them as they wished. Nicolls stated that the lands designated for first planting were those west of the Hudson River and those adjoining Esopus, and that every encouragement would be given to such plantations.[3]

The Elizabethtown patent, validated by Nicolls on December 1, 1664, extended from the mouth of the Raritan to the mouth of the Passaic, a distance of 17 miles, and it extended 34 miles into the back country. It contained upwards of 500,000 acres, which included the whole of Union County and parts of Morris and Somerset, as well as the future towns of Piscataway and Woodbridge.

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[2] *N.J.A.*, I, 14-17; Edwin Hatfield, *History of Elizabeth, New Jersey* (New York, 1868), 222-226.

[3] *ibid.*, 33-34.

This land was well drained by the Raritan, Passaic, Rahway, and Elizabeth Rivers and by Thompson's Creek and Bound Brook. There was much bottom land here, and the native soils of red shale and clay loam were also fertile. Bayly, Denton, and Watson had agreed to make a final payment to the Indians of 400 fathoms of white wampum within a year after entry was made upon the patent, and the record shows that 100 fathoms were paid in August 1665 and the remaining 300 in November. According to a statement made in 1747 in the Elizabethtown Bill of Chancery, only Luke Watson and John Ogden, "certainly no more than four families," had settled there by August 1665, when Governor Carteret arrived.[4]

Bayly, Denton, and Watson lost no time in recruiting new associates. The town plat was laid out and rights were offered at £4 apiece. The home lot was six acres in size. Second-lot rights were twice as large, and third-lot rights, three times as large. Unfortunately the Elizabethtown book was lost or destroyed in 1718 so that the story of Elizabethtown's first years is lost in the mists of history. The few excerpts that remain, however, are of considerable assistance. At the "meeting court" held on February 19, 1666, under the "presidency" of James Bollen, "by the approbation of Governor Philip Carteret, Esq.," it was agreed that the town would consist of eighty families for the present and that as many as twenty more might be added "according to their discretion for the good and benefit of the town (as to them) shall seem fit." It was also voted that persons having lots must occupy them by April 15 or forfeit them to others wishing to settle. Owners of home lots must occupy them for three years before being free to dispose of them to others. Those violating this order would be fined at the rate of £4 per month. A home lot contained four acres, with an option to obtain two additional acres. Probably, as in Newark, the lots were chosen by lot. They began on the first upland beyond the salt marsh and extended for about two miles on both sides of the creek that divided the town. Each lot had a frontage of 264 feet and extended back 660 feet. No map of the town plat is extant.[5]

At the town meeting of February 19, 1666, the male inhabitants of Elizabethtown were required to take the oath of allegiance as specified in the Concessions: to bear true faith to King Charles and to be "true and faithful to the Lords proprietors, their Successors and the Government of this Province of New Jersey . . . without any Equivocation or Mental Reservation whatsoever. . . ." Sixty-five men took the oath. Baker's name is missing since he was in New York in the service of Nicolls. The list of the original associates contains eighty names. Of this number, twenty-one had third-lot rights for eighteen acres, twenty-six had second-lot rights for twelve acres, and thirty-three had first-lot rights for six acres. Since the list was compiled after the taking of the oath, it contained twenty-six new names, some of them names of sons of first settlers.[6]

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[4] *N.J.A.*, I, 17-19; Hatfield, *History of Elizabeth*, 36-37, 40-41.

[5] *ibid.*, 54-55.

Except for Governor Carteret and his party, practically all the settlers were of New England origin and most of them had come by way of Long Island. The majority were from the towns on the eastern end—Southold, Southampton, and East Hampton; others had dwelt for a shorter time at Hempstead, Huntington, and Jamaica, in the west. The majority of the Elizabethtown associates were born or raised in Stamford, Fairfield, Milford, New Haven, and Guilford. A number had come from Massachusetts Bay by way of Wethersfield in Connecticut. As Edwin Hatfield, the historian of Elizabethtown, points out, many of the settlers had known or known of one another. Moreover, they enjoyed in common the same mores, religion, economic background, and type of town and governmental organization. They shared this Puritan background with their neighbors to the north at Newark.

With Carteret came settlers with a different background. He was accompanied by Robert Vauquellin, "Sieur de la Prairie of the city of Caen, France," appointed surveyor general by the proprietors, and thirty servants, some of French extraction, from the Channel Islands. Eighteen of them were men and at least two were soon admitted to the status of associates. Vauquellin had been on the Isle of Jersey with Carteret and had accompanied him to England in January 1665, thence to East Jersey. He, too, became an Elizabethtown associate.

During the first months of settlement there were changes among the Elizabethtown principals. Bayly sold out to Governor Carteret, and John Ogden of Northampton bought out Daniel Denton, who returned to New York. In 1670 Denton published in London his famous *Brief Description of New York*, which contained several passages on East Jersey. Thus by the spring of 1666 the three chief owners of the Elizabethtown patent were Ogden, Carteret, and Luke Watson, who had signed the original deed in 1664. About ten years later, in 1676, Watson moved to the western bank of the Delaware, where he later attained membership in the Pennsylvania lower house, then in the council.[7]

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[6] *ibid.*, 56-57.

In May 1666 Watson, Ogden, and Carteret entered into an agreement with Daniel Pierce, John Pike, and Andrew Tappan, of Newbury, Massachusetts, to sell off the southern half of their patent as two townships to accommodate a group of settlers from Newbury. This area extended from the Rahway River to the Raritan. On December 11, in consideration of the sum of £80 sterling, the transfer was made. In December 1667 a confirmatory deed "for the accomodating of the Towne now called Woodbridge" was issued. It was signed by Pierce and eight associates, his son Joshua, John Pike, John Bishop, Henry Jacques, and Hugh March, of Newbury; Stephen Kent, of Haverhill; Robert Dennis, of Yarmouth; and John Smith, of Barnstable; all from Massachusetts. Each of the original associates was entitled to 240 acres of upland and 40 acres of meadow in addition to the regular allotments to all purchasers. Pierce senior, a blacksmith, soon returned to Massachusetts, but Joshua died in Woodbridge in 1670. John Pike in 1671 was elected president of Woodbridge court and was appointed to the governor's council. He was a captain of the militia in 1675. John Smith, wheelwright, became the first constable of Woodbridge and was later elected to the East Jersey assembly. The first town meetings were held in his house, and he acted as moderator. Bishop, Jacques, and March were carpenters. Dennis served on the committee for assessing the town rates. Samuel Moore, town clerk from 1668 to 1688, was also a Massachusetts man, and, though not an original associate, he was prominent in Woodbridge affairs for many years. Woodbridge township derived its name from that of the Reverend John Woodbridge, the popular nephew of the great minister of Newbury, the Reverend Thomas Parker.

On December 3, 1667, Daniel Pierce was commissioned as deputy surveyor to lay out the bounds of Woodbridge and the proportion of land belonging to each individual. In February 1668, as required by the proprietors, thirteen Woodbridge men, including Bishop, Jacques, March, Moore, Pike, and Smith, took the oath of allegiance. On June 1, 1669, Woodbridge received a charter signed by Governor Carteret and his council, and in September 1672 it was confirmed by Berkeley and Carteret. In brief, its articles set forth the township bounds—on the east by Achter Kull Sound, on the north by Elizabethtown, on the south by the Raritan, and on the west by the newly created township of New Piscataway. The charter stipulated also that the corporation should include at least sixty families; directed how the land should be divided; designated the proprietary quitrent at 1/2d. per acre; provided that the freeholders might choose their own magistrates and nominate their own justices of the peace and military officers, subject to confirmation by the governor. The freeholders were granted permission to choose their own ministers, toward whose support each inhabitant must contribute "according to his estate." Two hundred acres were laid out for the use of the minister and 100 acres for the maintenance of a free school, both exempt from quitrent. The home lots were from 10 to 20 acres in size and each purchaser was entitled to meadowland and upland as well. The 10-acre shareholder received approximately 6 acres of meadowland and 60 acres of upland.

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[7] *ibid.*, 58-114 *passim.*

In the spirit of the Concessions, any inhabitant of a different religious persuasion than the Puritan might contribute to the support of any other minister. Liberty of conscience was guaranteed according to the terms of the Concessions. The inhabitants enjoyed the right of trade unburdened by any tax save that for defraying the public charges imposed by the governor and the general assembly. Woodbridge was expected to join with neighboring towns in repelling Indian attacks; fortunately there were none. The inhabitants were obligated to submit to the laws and government of the province and to swear allegiance to the proprietors. Another article provided for the general ordering of the town's affairs by majority vote of the freeholders in town meeting. The freeholders, too, would elect two members to the assembly. In lieu of the proprietors' one-seventh of townlands, it was mutually agreed that they would accept 900 acres of upland at Ambo Point—at the junction of the Raritan and Achter Kull Sound—and the remaining 100 acres in meadowland near by.

The judicial arrangements were carefully drawn and, in fact, were identical with those of the other townships approved by the proprietors. The court consisted of a president, who would be a justice of the peace, of at least two magistrates or assistants, and a clerk. It would have jurisdiction in cases involving £5 and under. It was empowered to try all misdemeanors and inflict fines and punishments such as "stocking, whipping (not exceeding Twenty stripes), pilloring, ducking, branding and the like." No freeholder could be arrested or detained for debt until judgment and execution were meted out, unless it was shown that he could defraud his creditors if he left the province. All fines were designated for charitable or public uses. This was a liberal code, comparing most favorably with that established by the Quakers in West Jersey in 1676. Moreover, it carried out to the letter the agreement arrived at between Carteret on the one side and Pierce, Pike, and Tappan on the other, dated May 21, 1666.[8]

On December 16, 1666, a week after obtaining his patent from the governor and his council, Daniel Pierce transferred a third of his holdings to four men—John Martin, Charles Gilman, Hugh Dunn, and Hopewell Hull, all of New Hampshire. Although Robert Moore, Samuel Dennis, and others in Woodbridge protested against this sale, Martin and his associates founded the town of New Piscataway, or, as it was popularly called, Piscataway. The name derives from a stream, the Piscataqua, which now divides New Hampshire from Maine. In May 1668 by an endorsement on the deed, these four patentees were joined by four others from New Hampshire—Benjamin Hull, Robert Dennis, John Smith, and John Gilman. By 1670 at least fifteen others had arrived, including members of the Drake and Fitzrandolph families. Although Piscataway was still short of the sixty families needed to confirm the original patent, Carteret permitted the undertakers to continue their efforts. The purchasers' home lots and meadow and uplands were similar in size to those of Woodbridge.[9]

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[8] W. A. Whitehead, *East Jersey under the Proprietary Governments* (rev. ed., Newark, 1875), 48-49, 285-288 (hereafter cited as Whitehead, *East Jersey*); *N.J.A.*, I, 9-19 *passim.*

The townships of Middletown and Shrewsbury originated with a patent issued on April 4, 1665, by Governor Nicolls.[10] Twelve men, mainly from Long Island, obtained a triangular tract of land extending from Sandy Hook to the mouth of the Raritan, up that river for approximately twenty-five miles, thence southwest and southeast for twelve and twenty-five miles, respectively, reaching the ocean again at Barnegat Bay. It was some time before these bounds were definitely established. The "great grant" was first known as the Navesink patent from the Indian name of the most northerly neck; after 1675 as Middletown and Shrewsbury County; and by legislative act in 1682 as Monmouth County.[11]

According to the terms of the Nicolls patent, one hundred families must be planted within three years. The settlers were exempt from quitrents and taxes for seven years, until 1672. After that time they would pay the Duke's customary rate of 1/2d. to 1d. per acre. Nicolls, of course, was unaware of the transfer from the Duke to Berkeley and Carteret. The patentees were obligated to form compact settlements and to erect fortifications for their defense. The freemen were given leave to elect from five to seven select men who were empowered to make "peculiar prudential laws" or local ordinances, provided they were not repugnant to the Duke's laws. This code of laws had been formally announced by Nicolls at a meeting of delegates from the New York mainland and Long Island in March 1665.[12] Full liberty of conscience was granted. The freemen, through their elected magistrates, were authorized to try actions such as debt and trespass to the value of £10 without liberty of appeal, but in cases involving a larger sum and in criminal cases the action must go before the court of assize, the superior court of the province, meeting at New York. The inhabitants would enjoy the privileges, freedoms, and immunities of other inhabitants in the Duke's territories. It should be kept in mind that English settlements on Long Island and on the mainland were vested with the same privileges as Navesink.

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[9] Whitehead, *Contributions to the Early History of Perth Amboy* (New York, 1856), 354-366 *passim*, 401-404 *passim* (hereafter cited as Whitehead, *Perth Amboy*).

[10] *N.J.A.*, I, 43-46.

[11] Rev. A. A. Marcellus, "The Discovery and Settlement of Monmouth," *N.J.H.S. Proc.*, 1st ser., I (1845-1846), 166, 168.

[12] The Duke's Laws were in force in New York until 1691. Since they were extended to the east bank of the Delaware by Governor Andros in 1676, they are printed in *The Charter of William Penn and the Laws of the Province of Pennsylvania* (Harrisburg, 1879), 3-59.

The original Monmouth patentees were John Bowne, James Grover, Richard Stout, Samuel Spicer, Richard Gibbins, Obediah Holmes, Jr., William Reape, John Tilton, Nicholas Davis, Nathaniel Sylvester, William Goulding, and Walter Clarke, a group of Baptists and Quakers. Bowne, Grover, Stout, Spicer, Gibbins, Tilton, and Goulding were from Gravesend, Long Island; Sylvester, a former Barbadian, was from Shelter Island; and Reape, Davis, and Clarke were from Newport, Rhode Island. Holmes, son of the great Baptist, was from Middletown, near Newport. Reape and Clarke were the leading spirits in obtaining the money to pay the Indians for their lands and in recruiting the necessary 100 families. Eight of the original patentees were Quakers; the remainder —Grover, Stout, and Holmes—Baptists. Only Grover, Stout, and Gibbins settled permanently in Navesink, but Davis, Holmes, and others were there from time to time. The original patentees were allowed 500 acres with increments of 120 acres for each member of the family and 60 acres for each servant.[13]

The remarkable Lady Deborah Moody had migrated from Wilts, England, to Lynn, Massachusetts, where she was driven out by Salem Church for her Anabaptist leanings. She then purchased an estate at Gravesend, Long Island, the hatching ground of the Navesink pioneers. The Tilton and Spicer families followed her from Lynn and also joined the Friends. Though Samuel Spicer and Peter Tilton participated actively in the settlement of Monmouth and were there frequently, both continued to reside on Long Island. In 1672 they signed a petition to the governor of New York explaining why Quakers could not pay dues for the repair of the fort at Manhattan. In 1688 Spicer sold his Middletown lands—600 acres—and moved to Cooper's Creek in West Jersey, where he became a judge.

Nathaniel Sylvester, like Lady Moody, provided a haven for dispossessed Quakers. He purchased, with others, Shelter Island, a part of eastern Long Island, after Massachusetts passed a law in 1657 banning Friends. Like Nicholas Davis, who left Massachusetts for Newport, Rhode Island, and William Goulding, another Quaker patentee, who sold his share to Richard Hartshorne in 1670, Sylvester never settled in East Jersey.

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[13] Orra E. Monette, *First Settlers . . . of Piscataway and Woodbridge* (Los Angeles, 1931), Pt. II, 187-192.

Walter Clarke, the most distinguished patentee, never resided in East Jersey. Son of a founder of Rhode Island, he became a Quaker in 1657 and was a leader of the Newport Friends. During his stormy career—his defiance of Governor Andros in 1688 was famous—he was four times governor and twenty-three times deputy governor of Rhode Island. Clarke was greatly interested in the New Jersey ventures of the Friends. He took up his rights to lands at Navesink, and, with Richard Hartshorne as agent, he sold them off through the years. In 1681 Clarke and two others purchased a third of a share of a West Jersey propriety that later came into possession of one of them, Arthur Cooke, a Newport merchant who eventually became speaker of the assembly of Pennsylvania. William Reape, of Newport, unfortunately died before he could remove to Monmouth. His wife took up his rights and the rights of those who intended to migrate with him, 1,170 acres in all.

John Bowne, of Flushing, remembered for his personal protest to the Dutch West India Company at Amsterdam against Director-General Stuyvesant's interference with freedom of conscience, was never a resident of Navesink. He was a Quaker, while John Bowne (Bound), of Gravesend, one of the most prominent early settlers of Middletown, was a Baptist. The Middletown Bowne was, as we shall see, a great figure in East Jersey.

Grover, Gibbins, and Stout resided in Middletown for the remainder of their lives, while Holmes lived on Staten Island until he moved to Salem County in West Jersey, where, like his famous father, he became a Baptist preacher. Grover, a civic leader, was also one of the pioneer founders of the Baptist church in Middletown in 1668. Before his death in 1685 he was, as was Gibbins, an assistant of Middletown and Shrewsbury court under Bowne as president, and he served as lieutenant in the Middletown militia. For a time he kept an ordinary and was a substantial landowner, with 559 acres of land confirmed to him under his rights in 1675.

Gibbins built up an estate of 750 acres in several parcels, but in 1676 he removed to Salem, where he purchased 500 acres. Stout was perhaps the largest resident owner of the Navesink group, with rights amounting to 1,800 acres, to which he added at least 750 acres. In 1688 he purchased one-twentieth of a share under the Twenty-Four Proprietors.[14]

The settlement of the Monmouth tract was highly successful. Each original purchaser paid £3 or £4 for which he was entitled to 120 acres for himself, his wife, and each child and 60 acres for each servant. Perhaps as many as 80 families in all came from Rhode Island, Long Island and Massachusetts during the first few years. The majority of them came from Massachusetts. By 1669 further settlement at Middletown was not encouraged, "considering the town to be now wholly compleated beeing full according to their number."[15] In February 1668 twenty-six men, including one patentee, James Grover, took the oath of allegiance. Oddly, few patentees played leading roles in public affairs; only Grover was active. Navesink, however, did not lack leaders, for the early settlers were possessed of ambition and initiative. The new men, all Quakers, were Richard Hartshorne, Eliakim Wardwell, John Hance, John Ashton, Richard Lippincott, and John and James Browne.

Hartshorne and Wardwell were the leading Friends of Middletown and Shrewsbury, respectively, the communities that sheltered the earliest Friends' meetings in New Jersey. Both towns by 1670 had meetings for worship, men's and women's meetings, and monthly meetings. George Fox complimented both groups during his tour through New Jersey in 1672. At the time, a meeting house was being built in Shrewsbury. Hartshorne and Wardell, too, were the first Quaker ministers in New Jersey. Hartshorne arrived from Leicestershire in 1669 and began farming on Wakecake Creek. To his chagrin, he learned that the Indian title had not been purchased by the patentees, the only persons with authority to do so. When the Indians threatened to kill his cattle, he went to Gravesend and purchased the interest of William Goulding, thus becoming a patentee with the right to purchase from the Indians. "When I came back," he wrote, "the Indians were at me and I did. James Grover, Richard Stout, Samuel Spicer were at Wakecake, when I bought and paid for it, I then being a patentee as well as the rest."[16]

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[14] Edwin Salter, *A History of Monmouth and Ocean Counties* (Bayonne, 1890), 16-18; Rufus M. Jones, *The Quakers in the American Colonies* (London, 1923), contains many references (see index) to the entrepreneurs of Monmouth. References to their activities in East Jersey may be found in *N.J.A.*, XXI, a volume that is well indexed.

[15] John E. Stillwell, *Historical and Genealogical Miscellany* (New York, 1906), IV, 303; Salter, *History of Monmouth and Ocean Counties*, 27-32.

The patentees and the elected deputies of Monmouth held their first "assembly" on June 4, 1667, at Portland Point (Atlantic Highlands) and adopted various acts and orders. Eliakim Wardwell, Edward Patterson, and Barth West were recognized as deputies of Shrewsbury; James Ashton and Shem Arnold, of Middletown; and James Bowne, of Portland Point. Overseers and constables for each of these hamlets were either confirmed or chosen. Richard Gibbins was constable from Middletown. The general assembly of Monmouth, which was active from 1667 to 1670, was thus made up of patentees and elected deputies. At the session of December 1669, for example, there were six patentees and five deputies; in July 1670, seven patentees and three deputies. The latter were John Hance, of Middletown, William Wardell, of Shrewsbury, and James Bowne, of Portland Point. This combination of law-making body, council of proprietors, and court was vested with local jurisdiction only. It took several brushes with the proprietors' assembly of Philip Carteret to establish this fact.

From the beginning, Middletown and Shrewsbury held town meetings and courts. Various ordinances were issued: the offer of a bounty of 20s. on wolves, for which Indians, too, were eligible; the fine of £10, half to go to the informer, half to the court, for purveying strong drink to the Indians; directions to place drunken Indians in the stocks until sober (John Hance was given 12s. 6d. to make a pair of stocks); and orders authorizing freemen to seize liquor in the possession of an Indian, with the proviso that the seizure be reported to the constable. Men were regularly appointed to arrest drunken Indians at night, and one John Job was fined 40s. for defying this order. Richard Sadler, judged guilty of delivering

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[16] Samuel Smith, *The History of . . . Nova-Caesaria, or New Jersey* (Philadelphia, 1765), 65n.

"contumelius speeches" of protest on the matter, was given a choice of a 20s. fine or of making a public acknowledgment of his offense at the town meeting. In 1670, the year when most of these orders were issued, the Middletown court consisted of Grover and Bowne; the overseers were Holmes and Lawrence; the assistants, Stout and Gibbins. Though few Indians lived permanently at Navesink many during the summer traveled the Minisink Path to the seashore. This path crossed the Blue Hills (Watchung Mountains) into Elizabeth township, turned south through Woodbridge township, crossed the Raritan near its mouth, and turned east along the shore passing just north of Middletown.[17]

Since the chartering of New Haven in 1639, a group there had been anxious to move the colony elsewhere. The inhabitants wished a milder climate and they were conscious of being hemmed in on all sides. Brave but abortive attempts had been made during the forties to establish an asylum on the Delaware, especially at Varkens Kill (Salem Creek), but these efforts were so sporadic and so weak that the Dutch had little trouble getting rid of the intruders. A revival of interest led to the founding of Newark.

By 1661 the situation in New Haven was more pressing. New Haven and its satellite towns of Milford, Branford, Guilford, and Stamford were being constricted and, indeed, the next year they were absorbed by the newly chartered colony of Connecticut. Moreover, this republican community was unhappy about the restoration of the Stuarts, although in August 1661 it formally acknowledged Charles II. Many felt that their peculiar religious and civil liberties were being endangered. Once again they thought of migrating. The only direction they might take lay to the south—to sparsely inhabited New Netherland. In November 1661 Matthew Gilbert, deputy governor of New Haven, addressed a letter to Peter Stuyvesant stating that because of the Director's previous encouragement he had appointed a committee of four headed by Robert Treat of Milford to discuss the terms upon which a colony might be planted in New Netherland "for the enlargement of the Kingdom of Christ Jesus in the Congregational way." Assuring the Dutch governor that they were "true men and noe spies," they requested his cooperation. Specific guarantees were asked of Stuyvesant: that the churches they established might officially enjoy all the powers, privileges, and liberties that they had enjoyed in New England; that synods might be formed for the regulation of matters of common concerns; that their churches and synods be protected by the governor and court of New Amsterdam; and that authority be granted them to choose their own magistrates, establish their own courts, and make "laws" suitable to their condition. They asked further that all persons within their settlement be required to obey their laws without the right of appeal to any other authority. These privileges, they stated, they had enjoyed in Connecticut under their grant from Charles I, and their continuance was essential in a land with whose language and laws they were unacquainted. In addition they asked that they might have the sole power of disposing of their lands and of receiving or rejecting immigrants and that no settlers be foisted upon them. They wished the same dues, customs, and trading privileges that the Dutch citizens enjoyed.

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[17] Joel Parker, "Early History of Monmouth County," *N.J.H.S. Proc.*, 2nd Ser., III (1872), 20, 43-46.

Within the month Stuyvesant gave them an answer, agreeing in part to their terms. New Netherland would impose no restraint upon religious conscience since the only difference between their churches was one of church governance. Stuyvesant minimized the difficulties in the way of granting their other demands, asking only that an oath of fidelity to his government be taken and that all their settlers be permitted the right of appeal to the highest court. He specified also that, following Dutch practice, prior approval of their officers and magistrates be obtained. To achieve this purpose double nominations for each office would be submitted to him and the final selections would be made by the director general and the magistrates of New Amsterdam. These stipulations were regarded as unpalatable by the people of New Haven, so the matter lapsed.

In April 1662, through the influence of John Winthrop, Jr., Connecticut secured from Charles II a royal charter that included New Haven, without the knowledge of the inhabitants. Such a union threatened the rock upon which New Haven stood: the right to exclude from the list of freemen those who did not worship in the Congregational way. At the beginning of 1663 Robert Treat, accompanied by Philip Groves and John Gregory, journeyed to

New Amsterdam to resume negotiations. Stuyvesant and his council modified their stipulations regarding appeal to the Dutch high court, but insisted upon the retention of the right of approval of the plantation's magistrates "as a token of an acknowledgement to a higher authority." Meanwhile Stuyvesant had communicated with the Dutch West India Company, his superiors, about the New Haven proposal, urging that such a settlement might serve the Dutch as a bulwark, "against the savages on the Raritan and Minisink." The Company's only stricture was that the severe punishments for crimes adopted in the English plantation should never be invoked against any Dutch inhabitants there. Stuyvesant, believing that Treat and his associates would not agree to this reservation, omitted it in his final reply. All else was agreed to in a letter of July 1663 save the confirmation of the magistrates. Local laws, if "found to concur with the Holy Scriptures," would be confirmed and would be binding upon all the inhabitants. No appeal would be allowed in criminal matters, but the death sentence "in dark and dubious matters, especially in Witchcraft," could not be executed without the approval of the director general and his council. In civil matters appeal would be permitted only in cases involving more than £100. In view of the hostility that the Dutch at this time felt toward the English it is surprising not only that they yielded so much but that they would countenance an English plantation in their midst. Yet these New Haven men hated Charles, and they, like the Dutch, were being strangled by their rivals. But with the information that New Netherland had been granted to the Duke of York by the King, the screw turned again. The New Haven towns, except Branford, acknowledged the authority of Connecticut, and their plan to remove was once more abandoned.

Hard on the heels of the grant of New Netherland to James came the news of the grant to Berkeley and Carteret, the arrival of Philip Carteret, and the Concessions and Agreements of 1665. These last, especially, with their promise of religious freedom, were most attractive. A committee composed of Robert Treat and two others was sent to New Jersey to speak to Governor Carteret. After first considering a location on the Delaware just below the Falls they decided upon one on the Passaic River close to Newark Bay, suggested by the governor. The fifteen articles agreed upon between the parties to the plantation have been lost, but the events leading to the first settlement are well known.

Treat and his colleagues stipulated that the Indian title to the patent must first be extinguished before they would take up a warrant from the governor. This matter was adjusted by Carteret giving Treat a letter to the Indian chief Oraton requesting him to give the planters immediate possession and promising to pay for the land. Treat and his party then returned to Connecticut to prepare for the migration. In May 1666 the emigrants, approximately thirty in number, passed through New York waters, through Kill van Kull Sound, and up Newark Bay to the west bank of the Passaic River.

Unfortunately Treat had not presented Carteret's letter to the Indians, and the expedition was not permitted to land. However, Samuel Edsall, of Bergen Neck, who was known to the Indians, was secured as interpreter, and he and Treat proceeded up the Hackensack to arrange for a treaty. One Perro, acting for the old chief Oraton, and his men duly appeared, and with the aid of the interpreters John Capteen, a Dutchman, and Samuel Edsall, the Indian title was purchased.

Meanwhile an arrangement was made with certain agents of Guilford and Branford whereby settlers from these towns might join those from Milford to form a single township on the Passaic. On May 21, 1666, an agreement was signed at Newark by Treat for the Milford folk and by Samuel Swain for those of Guilford and Branford proposing that "with one hand they may endeavor the carrying on of spiritual concernments, as also civil and town affairs, according to God and a Godly government." Apparently few persons were living in the settlement during the summer of 1666, but in October, when whole families arrived, it was a busy place. The tiny hamlet was laid out with little reference to symmetry, the streets following Indian paths and avoiding obstructions furnished by the terrain. The earliest settlers lived along what became Broad, Market, Mulberry, and Washington Streets.

Meanwhile in Branford those intending to migrate, following orthodox Puritan precedents, agreed upon certain fundamentals, to wit: that none should be freemen unless they were members of the Congregational church and that churchmen only might vote for magistrates or hold office. Others might become inhabitants and enjoy all other privileges in accordance with the laws and orders adopted by the elect. Twenty-three persons headed by Jasper Crane, on October 30, 1666, subscribed to this document to provide for "the maintenance of the purity of Religion professed in the Congregational Churches." The statement bristled with references to Jeremiah, Deuteronomy, and Exodus that buttressed their philosophy of the union of state and church. "Their nobles shall be of themselves, and their governor shall proceed from the midst of them."

Jasper Crane was to the men of Branford what Robert Treat was to those of Milford. He was a magistrate and an officer of the church. Thus on occasion his name took precedence even over that of Abraham Pierson, the revered minister. Here, too, was a strong religious leader whose flock had followed him from Southampton to Branford, and finally to New Jersey. After the arrival of the Branford men, those from Milford, in June 1667, also signed the covenant. There were then forty-one of them. Though not as numerous as the settlers from Milford and New Haven, the Branford people were more tightly organized. Thus the name Newark prevailed, in honor of Abraham Pierson's early associations with Newark-on-Trent in old Lincoln County. The Milford and New Haven settlers located themselves south of the present Market Street, and those of Branford, north of Market, on Broad and Washington Streets. Later, by resolution, the selection of home lots was confirmed, but settlers from Milford and New Haven "freely gave way that Captain Robert Treat should choose his lots" and be permitted eight acres instead of the usual six. His home lot was located on the southeast corner of Broad and Market, taking in the whole distance between Broad and Mulberry Streets.

The final step was to draw accurately the bounds of the township. Through the agency of Samuel Edsall a more formal instrument with the Indians was perfected at a conference held in July 1667 "at the head of the Cove of Bound Brook." The boundaries of Newark were extended westward to the foot of the Watchung Mountains. On the east the bounds were the Hackensack River and Newark Bay; on the north they followed the Yauntakah, or third branch of the Passaic; and on the south, the bounds of Elizabethtown. The Indians were paid in kind: 50 double hands of powder, 100 bars of lead, 20 axes, 20 coats, 10 guns, 20 pistols, 10 kettles, 10 swords, 4 blankets, 4 barrels of beer, 2 pairs of breeches, 50 knives, 20 hoes, 850 fathoms of wampum, 2 anchors of liquors (about 32 gallons), and 3 trooper's coats. In 1678, for an additional payment of 2 guns, 3 coats, and 13 cans of rum, the western bounds were extended to the summit line of the Watchung Mountains. It is of interest to note that the West Jersey settlers at Burlington paid in similar wares and provided, in addition, hose, petticoats, combs, tobacco tongs, scissors, tobacco boxes, pipes, bells, and jews' harps. Having come directly from England they were better stocked. In May 1668 the southern boundary was drawn in conference with representatives of Elizabethtown, in an atmosphere of great solemnity, presided over by "Governor Treat" and John Ogden, one of the proprietors of Elizabethtown.

Newark township was a spacious area running about nine miles from north to south and six miles from east to west but expanding to nine miles along its southern border. The land was well drained by the numerous branches and brooks that flowed into the Passaic. Between the Passaic and the Hackensack, the eastern boundary north of Newark Bay, there were large forests of pine. The lower Passaic was bordered with meadowland, much of it fine bottom land, some of it marsh land. The town itself stood on a bluff, from thirty to fifty feet above the water, protected against floods and run-off. Several brooks ran through the town providing needed water. At the beginning sixty-four home lots were laid out. Lots were reserved for a watering place, a landing place, a boatman's lot, a market place, a mill lot, the elders' lot for a church, and a burying ground. Both the site and the situation were propitious for a permanent settlement.[18]

Outside the six towns, but within the proprietary of Berkeley and Carteret, was the Dutch settlement of Bergen. In 1659 Governor Stuyvesant had taken steps to prepare Bergen for settlement by purchasing from the Indians the lands between the Hackensack and the Hudson from "Wiehachan" (Weehawken) in the north to Kill van Kull Sound in the south. This purchase included all the old Pavonia patroonship. The price was small: 80 fathoms of wampum, 20 of cloth, 12 kettles, 6 guns, 2 blankets, a double kettle, and half a barrel of strong beer. The small hamlets of Pavonia, mentioned earlier, took on new vigor. In 1661 Bergen was incorporated, and its court, with Tielman Van Vleck as sheriff, aided by two other magistrates, was the first court in New Jersey. The village soon boasted a well, a sawmill, and a fort, and, in 1662, 417 guilders were subscribed toward the building of a church.

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[18] Whitehead, *East Jersey*, 49-53; Whitehead, "A Historical Memoir of the Circumstances Leading to and Connected with the Settlement of Newark," *N.J.H.S. Colls.*, VI (Supplement, 1866), 9-55; "Records of the Town of Newark," *N.J.H.S. Colls.*, VI (1864), 1-10 *passim* (hereafter cited as Newark Recs.).

In August 1665, just after Carteret's arrival, a commission was issued to Bergen to set up a local court with Nicholas Verlett as president, Herman Smeeman and Caspar Stynmets of Bergen, and Elias Michielson of Communipauw as assistants. Hans Diederick was chosen constable; Tielman Van Vleck, clerk; and Captain Adrian Post, ensign in charge of defense. Thus in November 1665, when thirty-two residents of Bergen township took the oath of allegiance "to be true and Faithfull to the Lords Proprietors and their successors and the Government of this Province . . . ," this community was fully organized. The freemen and inhabitants of Bergen township were the first in the province to take the oath.

Bergen township was bounded by Newark Bay and the Hackensack River on the west, the Hudson on the east, and by Kill van Kull Sound on the south. Its northern boundary began on the Hudson just north of Weehawken and extended west to the Hackensack. The township corporation agreed to pay £15 sterling quitrent for this area of 11,250 acres. The corporation was required to acknowledge the authority of the proprietors and their government. All freeholders living in the various parts of the township, including Bergen, Horsimus, Communipauw, Minacque, and Pembrepow, were designated as freemen. As at Woodbridge, the freemen chose their own magistrates as assistants to the president of the court, nominated justices of the peace to be commissioned by the governor, elected two members to the general assembly, and appointed their own ministers. Likewise the inhabitants were privileged to set up petty courts, appoint their own constables, and enjoy free trade. In turn, they were required to submit to the laws of the province, subscribe to the oath of allegiance, and be prepared to adopt measures for public defense. The corporation was authorized to divide and dispose of its vacant lands.

Several large purchases of land were approved by Governor Carteret in the Bergen area during the next few years. In July 1668 the lands for seven miles above Achter Kull (Newark Bay) between the Passaic and Hackensack Rivers, a tract of 5,300 acres of upland and 10,000 acres of meadowland, were granted to Captain William Sandford of Barbados. His purchase was the beginning of the interest of the Barbadian group in East Jersey. These men, several of them Quakers, were endeavoring to escape the web of the sugar-slave plantation economy. The terms of the Sandford grant were £20 sterling per annum for the entire patent, instead of the 1/2d. per acre required for smaller holdings. Sandford had acquired this tract for himself and Major Nathaniel Kingsland, also of Barbados. Kingsland was later to hold the northern two-thirds, while Sandford retained the southern third and resided upon it. For the Indian title of this enormous tract, called New Barbados, Sandford gave 170 fathoms of black wampum, 200 of white wampum, 19 match coats, 16 guns, 60 double hands of powder, 10 pairs of breeches, 60 knives, 67 lead bars, 1 anchor of brandy, 3 half casks of beer, 11 blankets, 30 axes, 20 hoes, and 2 coats of duffel. Though he refused appointment as a member of the provincial council in 1669, Sandford later served in that capacity under Governors Rudyard and Lawrie. Kingsland never visited New Jersey, but on his death he left a third of his plantation to his nephew Isaac, who resided at New Barbados. The nephew quickly rose to prominence and was a trusted member of the council under Governors Campbell, Lawrie, and Hamilton.

In June 1669 another Barbadian, Captain John Berry, obtained a large grant above that of Sandford that extended between the rivers for a distance of six miles. Like the Sandford grant, this lay within the bounds of Newark township, but since Berry held other lands on the Hudson north of Hoboken, he regarded himself as a resident of Bergen township. In 1676 a large grant was made of New Hackensack, a projected settlement north of Weehawken in Bergen County. Hans Diederick, Gerrit Geritsen, Walling Jacobs, Hendrick George and Company in 1679 purchased Aquickamonk, a huge tract, from the Indians. This area lay north of Newark township and comprised a rough triangle bounded by the Passaic to the Great Fall, the Third River, and the Watchung Mountains. For this tract the proprietors obtained £50 sterling and an annual quitrent of £14 from an expanded group of associates. These landowners expected to open up their tracts to settlers who came as farmers.[19]

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[19] Whitehead, *East Jersey*, 54-56, 293-294; E. P. Tanner, *The Province of New Jersey, 1664-1738* (New York, 1908), contains many references to the founding of the East Jersey townships.

CHAPTER IV

The Rebellion of 1672

At the first New Jersey assembly, held in Elizabethtown in May 1668, John Bowne and James Grover took the oath as the deputies from Navesink, representing both Middletown and Shrewsbury. But just before the second session in November there was a great clamor in Middletown, and at a town meeting both men were repudiated. In a resolution addressed to the lower house, the freeholders protested that Bowne and Grover had not been legally elected because the summons for the May election had been issued only the night before; thus it had been impossible for freeholders living at a distance to attend the town meeting. Since the deputies had been chosen by so few men, the township would not be bound by their votes or their actions. Hence Bowne and Grover in voting for measures such as the £5 tax on the townships had violated the liberties and privileges contained in the Monmouth patent. Their successors were instructed to inform the governor and his council that Middletown's resolution "was neither contempt nor obstinacy, nor wilful on our parts"; the election simply had not been legal. The Middletown town book contains no entry of the May election of Bowne and Grover. Although Shrewsbury had held no May election, the assembly records show that Middletown deputies had acted for all of Navesink.

The town meeting also instructed its representatives that they must add a proviso to any oath of allegiance they were required to take "that noe law, or act, or command which is or may bee acted or commanded, may any way be forceible" against the liberties and privileges of the Monmouth patent. Should the governor and the assembly not accept this condition, the Middletown deputies were not to sit. On November 1, two days before the assembly met, Jonathan Holmes and Edward Tart were chosen as the deputies for Middletown, and Thomas Winterton and John Hance for Shrewsbury.[1]

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[1] Parker, "History of Monmouth," 21-23; Leaming and Spicer, *The Grants, Concessions, and Original Constitutions of the Province of New Jersey* (Phila., 1758), p. 77 (hereafter cited as Leaming and Spicer).

On the first day of the November session all four deputies were disqualified because, since their proviso had been rejected, they had refused to take the oath. The two towns then refused to pay the £5 township tax because they held that the Monmouth patent had exempted them from taxes for seven years—until 1672. The assembly then delegated Luke Watson and Samuel Moore, both prominent Woodbridge men, the latter a Barbadian, to demand payment and, if Navesink refused, to recover from the inhabitants "by way of distress." The assembly's envoys were also instructed to ascertain whether the inhabitants would submit to the laws and government of the proprietors, "under which answer the General Assembly will proceed accordingly."

Upon learning of the action of the assembly, the Middletown freemen prepared to defend their position. In February 1669 "in a legall towne meeting" the inhabitants were ordered to aid anyone who resisted persons attempting to seize and remove their possessions and to make known to the constable any demand to meet with an assembly agent, under penalty of £5 for nonassistance or for refusing to cooperate. Moreover, if any inhabitant was called upon by warrant to appear before the court or the governor for failure to obey, the town would reimburse him for his time and expense.

James Ashton, Jonathan Holmes, Richard Gibbins, Richard Stout, William Lawrence, and Edward Tart were directed to transmit to Governor Carteret the town's answer. The town clerk, Tart, was permitted to receive from Watson and Moore a copy of the assembly's laws, but "for their own security only." To the demand that Moore and Watson be given assistance in distraining the goods of the inhabitants, the meeting protested that this was unjust, "for how can anything be due from any man or people who are not submitted; wee shall be passive here in refusing either aide or assistance to yee in this distraynt." The meeting then declared that it accepted Philip Carteret as the lawful governor and was prepared to yield obedience provided the liberties and privileges of their patent were maintained "in full and ample manner."

On March 17, in response to the demand for a positive acknowledgment of the government of "the absolute Lords Proprietors," the town meeting voted to submit an explanation to the assembly for refusing to obey the act of submission of November 7, 1668.

In their brief the freeholders asserted that they would swear allegiance to the King without mental reservation, but as to the proprietors' interest, "it was a new interest, and so obscure to us at present we are ignorant what it is." Now warrants coming to hand were not in the King's name, but in the Lords Proprietors' name, a name "wee simple creatures never heard of before." Their deputies had informed them that, notwithstanding their patent, they must submit to new laws and that Nicolls had had no power to patent the Duke's land. On March 1, 1668, the governor had forbidden Middletown and Shrewsbury to elect public officials, and current officials were forbidden to perform their duties upon penalty of being proceeded against as mutineers. Since the assembly had passed an act styling Berkeley and Carteret absolute proprietors, the townsmen had reached the conclusion that the proprietors asserted not only absolute sovereignty (from which all laws must be given) but also absolute propriety (from which all lands must be held). These were the terms implied in the oath, in the submission demanded by the act, and so specified in Carteret's late orders.[2]

In rebuttal the freemen argued that the Monmouth patent, issued by Nicolls under the Duke's authority, had given them their lands and the right to make their own prudential laws. Certain laws passed by the Carteret assembly were not only contrary to the Duke's laws in New York but prejudicial to their welfare. Indeed, if they accepted them, they would be violating the Duke's laws, the only laws that pertained to them! This they were not bound to do since no provision had been made by the proprietors' government to conserve their privileges and liberties. If they submitted, their liberties could be destroyed by a majority vote of the assembly. "Should wee submit by swearing to the lawes of the government and not be guilty of self-violation of our pattent ourselves?" Moreover, since the proprietors were styled absolute, all persons residing upon proprietary lands were absolute tenants. If they took the oath of allegiance to the proprietors, they would be bound irrevocably to pay quitrents. Why, they asked, should they do this, especially in view of the fact that they had purchased their lands from the true proprietors, the Indians, by virtue of a grant from the Duke's deputy. Furthermore, if required to pay proprietary quitrents of more than ½d. per acre, the Duke's rate, again they would be self-violators of their patent. Indeed, to pay more than was asked of the Duke's subjects in New York "would bee a dishonner" to the Duke, under whose authority their patent had been granted! They regarded themselves responsible to the proprietors only in the same sense that His Majesty's subjects in New York did. For example, they would turn all criminals over to the proprietors' government for trial, as they would have to the Duke's government. In other words, nothing had been altered in the transfer from one suzerain to another. They would submit to the proprietors' government, but some provision must be made to secure them from destroying themselves. If no way could be found, they would "by the assistance of God sticke to our patent." They believed that the governor's order prohibiting their officers from discharging their duties was an inroad upon their interest. To prevent the circulation of misinformation, the town meeting voted to direct its statement to the assembly, "the highest authority in the province."[3]

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[2] Parker, "History of Monmouth," 23-28.

The assembly of November 1668 had broken up on the fifth day because the governor would not permit the council to sit jointly with the deputies. Though no minutes between 1668 and 1675 exist, we know that assembly meetings were held in October-November, 1671, in December, and in March and May of 1672. The Middletown town book informs us that the town meeting learned that in November 1671 the assembly had again demanded that it yield obedience to the proprietors. In December the meeting asserted its willingness to send deputies, "soe farre forth as is proper to our condition," but would not do so until publicly cleared of the charge of contempt of the authority of government. Then only would their deputies join in adopting any needful legislation. Had they received a writ from the governor, as alleged, they would have answered it if only to avoid the charge of attainder of rebellion, but since no writ had ever been delivered they judged themselves not obliged to make answer. They had not paid their portion of the tax because at the session of May 1668 "wee had noe deputies there" and at that of November their representatives had been disqualified. Rather churlishly the meeting claimed that an attempt had been made to bribe the Middletown deputies to take the oath by offering them dinner, a manifest wrong! Their deputies had missed the November 1671 session because the only boat had been disabled. This statement, signed by Tart, was dispatched to the assembly.

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[3] *ibid.*, 29-30.

Thus at the close of 1671 Middletown had not altered its position. It was willing to acknowledge the government of the proprietors provided a stipulation was made in the oath of allegiance that its liberties and privileges were fully safeguarded. Again they denied the right of the proprietors to quitrents.[4]

The troubles that Carteret and the assembly were experiencing with the Navesink towns broke out in a different form in Elizabethtown. There, as designated by the Concessions, quitrents were first due on March 25, 1670, the beginning of the year under the old calendar. But Elizabethtown, by virtue of her Nicolls patent and her subsequent Indian purchases, believed herself exempt from such claims. Meanwhile, the governor, Secretary Bollen, and Surveyor General Vauquellin, through private purchase, had become Elizabethtown associates and had shared in the assignment of house lots and in the first and second divisions of arable lands and meadowland. By 1670 Carteret had fallen out with the associates and freemen of the town because he exercised the questionable prerogative of presiding over the town meetings, because he admitted whom he pleased as freemen, and because he gave or sold lots to his servants without consulting the town meeting. For example, in February he declared Claude Valot, a servant whose indenture had expired, a freeman of Elizabethtown and a citizen of New Jersey. He then sold him a house and home lot, with the appropriate allotments of upland and meadow, thus giving him the status of an associate. Moreover, in October he revoked the militia commissions of two popular leaders, Luke Watson and John Woodruff, because they had disobeyed him. The inhabitants feared this act would weaken their security against the Indians.

In 1671 another indentured servant, Robert Michel, who had accompanied Carteret to East Jersey, became the central figure in the controversy. On his termination of service the governor bestowed upon him a house lot. Since Carteret had not cleared these arrangements with the town meeting, that body on June 19 forthwith resolved that Michel might not possess the lot and that some of them should "goe the next morning and pull up the said Michel's fence." Before the episode was concluded, Michel had lost his fence, his garden stakes, and clapboards from his house. William Pardon, a council member, remonstrated against this act of violence, but Luke Watson was accused of taking part in it. Carteret, in the light of an aroused public opinion, seemed powerless to deal with the offenders; in fact, William Meaker, whose son was one of the vandals, was chosen constable by the town.

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[4] Hatfield, *History of Elizabeth*, 127-128, 141-143; Parker, "History of Monmouth," 31-33.

The assembly, meeting in December 1671, authorized Carteret to appoint a special court of oyer and terminer to try this case against the peace of the province. In February the governor chose Berry as president and Vauquellin, Pardon, Edsall, Pike, Bond, and Treat as justices. On March 9 the jury found eight persons guilty, and the court imposed a fine of £5 on Meaker and fines of £3 on Jeffery Jones, Luke Watson, Nicholas Carter, Samuel Marsh, Jr., John Ogden, Jr., Hur Thompson, and Joseph Meaker.[5]

Early in 1670 Carteret and his council had warned the towns against permitting persons to hold office or to exercise the rights of citizens unless they patented their lands and became legal freeholders. All persons were urged to comply with the Concessions and take out proprietary patents. By this time the membership of the council had changed somewhat: Bollen, Vauquellin, Pardon, and Edsall remained, but John Berry of Bergen was appointed in 1669 and John Pike and John Bishop, Jr., of Woodbridge and Lawrence Andress of Bergen in 1670 had succeeded Verlett, Pierce, and Bond. The disappearance of the Elizabethtown town book leaves us somewhat in the dark regarding this town's attitude toward the governor's request for the payment of quitrents due on March 25, 1670. However, since only a small number had taken out proprietary patents, though many were in possession of lots and lands, there were few names on the quitrent rolls. In a list compiled in 1685 the names of fifty-seven are given whose rents were due in 1670.[6]

In February 1670 the town meeting of Newark simply affirmed

[5] Hatfield, *History of Elizabeth*, 133-134; *N.J.A.*, I, 80-87.

[6] Monette, *First Settlers*, Pt. 1, 53.

that the freeholders "do Hold and Possess their Lands and Rights in the said Town, Both by Civil and Divine Right, as by their Legall purchase and Articles doth and may Shew. And as for the payment of the Half Penny per Acre for all our Allotted Lands . . . You assuring them to us, We are ready when the Time Comes, to perform our Duty to the Lords or their Assigns." Newark, then, was willing to make proper quitrent payments but would maintain title to lands by virtue of purchase from the Indians.

At a town meeting on March 24, the inhabitants were ordered to pay their quitrents in wheat to the collector, Thomas Johnson. Summer wheat was valued at 4s. per bushel and winter wheat at 5s. Johnson and Henry Lyon, the town treasurer, were appointed to deliver the wheat to Carteret at Elizabethtown, "upon the account of the Lords Proprietors rent for the Land we make use of." In January 1671 the town meeting voted "the renewall of our Solemn Agreement to submit to Law and Authority among our selves, Till it be settled in the Province," and in March it directed Johnson and Lyon to tender the governor "Good Wheat for the Payment of their Half Penny pr Acre due Him for the Lords Proprietors."[7]

By the fall of 1671 East Jersey was in a turmoil largely because of Carteret's efforts to collect the quitrents. Moreover, Middletown and Shrewsbury had been declared guilty of contempt of the lawful authorities by the assembly of November 1668 because of their intransigent attitude. In Elizabethtown, as we have seen, there was also a strong anti-administration group. Further, although many had taken the oath of allegiance, the majority ignored the provision of the Concessions requiring that all lands must be held under warrant from the governor.[8]

The arrival of Captain James Carteret, second son of Sir George, in the summer of 1671 added to the confusion. This young man had followed the sea, advancing to the command of a man-of-war, and in 1666 he was captain general of a force that attempted to recapture St. Kitts from the French. Through his father he was appointed one of the three landgraves, or hereditary nobles, of the proprietary of Carolina. Presumably he stopped in East Jersey to become acquainted with the problems there and report to his father.

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[7] Newark Recs., 29, 30, 33, 34-35.

[8] Whitehead, *East Jersey*, 63.

James Carteret was made welcome by the governor and sat as a member of a joint New York-New Jersey council dealing with Indian unrest on the upper Delaware. A resolution was adopted calling upon Governor Carteret to convene an assembly to ascertain the strength of the defenses against the Indians and the willingness of the inhabitants to contribute to the cost of a war against them. Captain Carteret, presumably, attended the November-December assembly as the representative of his father. Unfortunately the minutes of this session are missing.

The general assembly again convened at Elizabethtown on March 26, 1672, but little is known of its proceedings. Because of entries in the Newark town book, it is believed that this session was devoted to the vexing problem of land patents and quitrents. At the town meeting of January 1, Jasper Crane and Robert Treat were chosen magistrates of Newark, and these men, together with Samuel Swain as an alternate, were chosen as the deputies to the assembly. On the twenty-second Treat and Swain were deputed "to Take the first opportunity to Advise with Mr. John Ogden, Sr. or any other they see Cause, what may be the Safest and Best Course to be taken for the Town, about our Lands and Settlements there." The townsmen were deeply concerned about Governor Carteret's motives.[9]

Although there is some doubt about the legality of the assembly meeting of March 26, that of May 14 was not only illegal but revolutionary. Deputies from all the towns except Middletown and Shrewsbury met at Elizabethtown without writs issued by the governor. They proceeded to elect Captain James Carteret "president of the province." On May 28 the governor and his council issued a declaration labeling the conduct of this self-styled assembly contrary to the Concessions and inimical to the interests of the proprietors. The "pretended" deputies, two each from Elizabethtown, Newark, Woodbridge, Piscataway, and one from Bergen, were commanded to submit to the authority of the governor in writing within ten days. If they did so their illegal actions would be "buried in Oblivion"; otherwise they would be proceeded against as mutineers. Should bloodshed result, the governor and council had by their offer of peace, they stated, absolved themselves "before

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[9] Newark Recs., 42-43.

God & Man from the Guilt thereof." The town constables were instructed to read this declaration at duly assembled town meetings.

On the same day, May 28, the governor and council, to win support in Middletown and Shrewsbury, which had refrained from sending delegates to the "disorganizing assembly," issued a confirmation of the rights and privileges of these towns under the patent granted them by Governor Nicolls in April 1665. This confirmation was addressed to James Grover, John Bowne, Richard Hartshorne, and Jonathan Holmes, patentees, and James Ashton and John Hance, associates, and was signed by Philip Carteret and his councilors. They had won full power to dispose of the lands under their Nicolls patent, freedom from taxation for the support of a minister should one be imposed upon them, and the privilege of trying all cases under £10, criminal cases excepted, with no appeal permissible. Criminal cases and appeals above the value of £10 would be determined in the higher courts, from which appeal to the King could be made. Finally they obtained the right to nominate two candidates for each office, civil and military, of whom the governor would commission one, and the right to make peculiar prudential laws among themselves, "according to the Tenor of the said Patent." Unfortunately the inhabitants of Navesink were to place a much broader interpretation upon these privileges than the governor and council ever intended. Actually Nicolls had granted his patentees no greater privileges than those contained in the Duke's laws first announced at Hempstead, Long Island, in 1665.[10]

In a letter dated June 15, 1672, the council advised Philip Carteret, in view of the "Strange and Iregular proceedings" of Captain James Carteret and of those pretending to act as deputies, to go to England to acquaint Sir George of the state of affairs. They hoped he could induce Sir George to command his son to refrain from irregularities and to proceed against those involved in the usurpation of power. They saw no other way of dealing with one "so Near related to one of ye Hon'ble Lords Proprietors." That the province was still in turmoil is borne out by Philip Carteret's order, issued two days later, commanding the inhabitants of Bergen not to obey any writ issued within the town and to pull them down unless they were signed by him. Failure to do so would be regarded in contempt of the lawful authority.[11]

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[10] Whitehead, *East Jersey*, 66; *N.J.A.*, I, 89-91.

Philip Carteret, on July 1, proclaimed John Berry deputy governor, then departed for England, accompanied by Bollen and Pardon. Before he left he made a public declaration that the following charges were entirely false: that he had held for his own use a large quantity of arms and ammunition that had been sent by the proprietors for the defense of the province; that he kept in his custody a large sum of money sent him to purchase lands from the Indians; and that he had forbidden the inhabitants to take part in military training under pain of death.

James Carteret had issued a warrant for the arrest of Pardon, the deputy secretary, to compel him to surrender the acts of the March assembly. Pardon refused and managed to escape from the custody of the constable. On June 25 John Ogden, a magistrate whose son was in the Meaker riot, had attached Pardon's moveables, and on July 9 James Carteret seized his house and lands on the ground that he had fled. On June 1 Secretary Bollen, who appeared in Elizabethtown with a proclamation from Governor Carteret, was also arrested. On June 24 he, too, had escaped and joined the governor at Bergen.[12]

The council on July 1 sent a communication to the proprietors in England by Samuel Moore of Woodbridge, giving its version of the troubles. Several malcontents, they wrote, conspired so successfully against the governor that they were able to elect as deputies men who had not taken the oath of allegiance. An illegal assembly followed, which had elected James Carteret president of the province. The latter then proceeded to abuse the governor and his council. He had commanded obedience through warrants issued in the King's name and ordered all in authority to cease performing their duties until they received orders from him. Pardon and others were arrested while carrying out their duties and, when they escaped, their goods were seized. This would be the fate of others who were loyal to the proprietors. James Carteret, as Sir George's son, claimed to be proprietor, although he exhibited no authority for such assumption of power, saying only that "he Scorneth to Shew his power to such fellowes as we, neither would he do so

[11] *ibid.*, 91-93.

[12] Whitehead, *East Jersey*, 69.

being on his own land." He had entirely ignored Lord Berkeley's interest. Since all those faithful to the proprietors' government were in danger of being imprisoned, their only recourse was to flee. The council heartily endorsed Philip Carteret's mission to England and warned that unless speedy action was taken, the government of New Jersey would soon meet the same fate as that of Lord Baltimore in Maryland. The council asked of Sir George, first, that all patents issued by the authority of the governor and council be confirmed and, second, that in order to encourage settlement approval be given for the payment of quitrents in kind instead of in money. The granting of these requests would "save Discouragements which is upon the Spirits of your faithfull Inhabitants that do willingly Comply unto your Honnours Concessions."

In November 1672 the first encouragement arrived from England. In a letter to Governor Lovelace of New York the Duke of York repeated his instruction to his predecessor, Nicolls, to assist Berkeley and Carteret, his grantees, in securing quiet possession of New Jersey. He stated also that the two Nicolls grants were void in law because they were made subsequent to his patent to Berkeley and Carteret. More important, he commanded Lovelace to make it known that he would not countenance the pretensions of persons tending "to derogate in the least" the grant to the proprietors, and to give aid immediately if asked by the government of the proprietors. Charles II, over the signature of Henry Coventry, secretary of state, wrote Deputy Governor Berry on December 10 that since certain disaffected persons in New Jersey had refused to submit to authority derived from the crown, to the prejudice of the proprietors, the disturbance of the inhabitants, and the hindrance of the whole plantation, he was commanding him to charge, in the King's name, all persons to yield obedience to the laws and the government of the proprietors. They alone, "having the sole Power under us to settle and dispose of the said Country . . . we shall expect a ready Complyance with this our Will and Pleasure from all Persons whatsoever . . . upon Pain of . . . being proceeded against with due severity according to Law."[13]

The proprietors, thus re-enforced, on December 6 issued declarations to the inhabitants and to Berry. The former were told that all lands granted by Governor Carteret and his council prior to July 28, 1672, were confirmed, provided their owners had performed their obligations. But those ignorantly asserting a right of propriety in land and government by virtue of the Nicolls patents were entirely repudiated—"we utterly disown any such thing." These claimants must immediately patent their lands from the proprietors and pay their quitrents. Their obligations, the proprietors stated, had frequently been explained to them. If they failed to comply, Berry and his council were directed to dispose of their lands to the proprietors' advantage. Persons not satisfied with their decision were invited to appeal to them, "and if their Right to that Land or Government appears better than ours, we will readily submit thereunto." Grants, conveyances, and surveys not derived from the proprietors and recorded in the secretary's office were null and void. The town constables were ordered by warrant from the governor to proceed by distress in the collection of quitrents due since March 25, 1670. If the rents could not be collected by this means, the province marshal would collect them at the expense of those in arrears. The persons who had attempted to alter the government would be proceeded against according to the proclamation of the governor and council of May 28 and must petition for the remission of their offenses. Those who had suffered loss or damage were entitled to reparation in the courts or through a special commission of the governor.

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[13] *N.J.A.*, I, 93-98, 107.

In another letter of the same date the proprietors instructed Berry and his council to make good the damage suffered by William Pardon from William Meaker and his collaborators. By a letter dated December 7 the proprietors decreed that a third of the quitrents of Woodbridge, which had remained loyal, should be remitted to the town corporation for seven years and that the council's emissary, Samuel Moore, of Woodbridge, be paid £10 annually from the receipts. Moore also was given a grant of 60 acres for himself and a similar amount for each member of his family.[14]

The proprietors on December 6 issued a declaration of the "True Intent and Meaning of their Concessions," which in effect greatly restricted the liberties and privileges of the colonists. Henceforth, the governor and council could qualify freemen without, as formerly

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[14] *ibid.*, 101-103, 104-105.

(Article 6), the approval of the general assembly; but no person could be qualified, vote, or hold office unless he held his lands by proprietary title. Likewise, the governor and council could, without the approval of the deputies, appoint such preachers as the several towns nominated and confirm the terms of the minister's maintenance (Article 8). Again without reference to the assembly, they might establish courts in the towns, but the courts of sessions and assizes would, as formerly, be constituted by the governor, council, and lower house together (Article 3). Appeals from the assizes could be made, as before, to the governor and council, then to the proprietors, and finally to the King. No new town corporations could be established without the consent of the proprietors. The governor and council were authorized to allot all lands without consulting the lower house. The powers of the governor and the council were still further enhanced: all province officers would be appointed by them, and they need not advise with the deputies unless they chose; the freeholders of the towns would consult them, but not the deputies, regarding the size of the lots and the regulations for laying out the streets, and the streets and lots would be laid out by the surveyor general. Warrants for lands were valid even though signed by the governor alone. In the case of rebellion the governor and council were empowered to call upon all persons for assistance, whether freeholders or not. They alone could designate the time and place of meetings of the general assembly. It was reiterated that the governor and the council would sit apart from the deputies and that whatever the latter proposed must be presented to them for consideration.

On December 7 the proprietors sent official instructions to Berry and his council. All writs must be issued in the King's name except those summoning the burgesses, which would be in the name of the proprietors. In the event of an appeal from the governor and council to the proprietors, the appellant must advance £12, in addition to costs and damages, and put up security of £100 to prosecute the case. The assembly was directed to make provision for the maintenance of the governor as provided in the Concessions. The proprietors would build a prison and a house for the warden out of quitrent receipts and would send over guns and ammunition for the defense of the colony. All other public charges must be defrayed by the colony. As to the quitrent arrears of Elizabethtown, Newark, Piscataway, Middletown, and Shrewsbury, and those of the planters and others who had as yet paid nothing, the proprietors ordered that all be paid up by 1676.

On December 10 the proprietors wrote Berry and the council expressing the hope that "the turbulent spirits" would no longer persist in their "obstinate and unwonted extravagancies." A copy of the Duke's letter to Governor Lovelace was to be made public together with their declarations and interpretations of the Concessions. They ordered that Secretary Bollen be paid £10 per annum for two years and that Pardon, his deputy, be appointed receiver general and receive 500 acres of land as remuneration for his losses. On December 11 the proprietors stated that they, together with Governor Carteret and Bollen, had examined the petition of the representatives of Elizabethtown, Newark, and Piscataway, and, though the signers had been unjust in their allegations, they were willing to hear any envoy sent over in their behalf. But for the future they expected these towns and all persons to yield due obedience to the government and the laws.

By the end of June 1673 James Carteret had sailed from New York for Carolina. Several months earlier he had married Frances Delavall, daughter of the mayor of New York, at whose home he had been a visitor. The arrival in May of Bollen, Pardon, and Moore, with documents of unimpeachable authority, had put an end to his interference in New Jersey. James Carteret failed to reach Carolina, for the sloop in which he sailed was captured by the Dutch, and her passengers were put ashore at the mouth of the James River. By the end of 1676 he was back in New York. Caspar Danckaerts in his *Journal* of 1679 gave him shabby treatment as a man abandoned by his wife and practically disowned by his father.[15]

In May 1673 Berry and his council implemented their authority. By proclamation all persons were forbidden to buy the estates of Meaker and his collaborators if offered for sale; and, as we have seen, the offenders were brought to trial in June. Meaker was condemned to forfeit his estate to Pardon, and the others were fined £10 each. Those who had participated in the rebellion were ordered to appear before Berry in Bergen and offer their submission. Any person repudiating his offense might plead for remission. A notice was sent to Newark directing its inhabitants to apply to the secretary for warrants for the lands they held and, if the lands were already surveyed, to procure certificates from the surveyor general enabling them to make application for proprietary patents. They would then pay their quitrents, together with the arrears from 1670. Only those holding proprietary patents would be qualified to vote for representatives. Those failing to take out patents would forfeit their lands, which would then be disposed of for the advantage of the proprietors. To afford the surveyor time, an identical order was rendered effective in Piscataway five weeks later, in Middletown and Shrewsbury within eight weeks, and in Elizabethtown and Woodbridge within twelve weeks. The fiat was laid down that "no person or persons whatsoever . . . shall be accompted a freeholder . . . nor have any vote in election, nor be capable of being Elected for any office of trust either Civil or Military, untill he doth actually hold his or their Lands patent from them."[16]

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[15] *ibid.*, 99-101, 105-106, 108-109; Whitehead, *East Jersey*, 68n, 69, 72n, 73n.

Lacking the earliest records of Elizabethtown, Woodbridge, and Piscataway, we are limited to the Navesink and Newark records for the aftermath of the rebellion of 1672. Middletown and Shrewsbury steadfastly refused to send deputies to any assembly because the constitutional questions had not been settled. In December 1671, although these towns had elected deputies, they sent word that they would not attend until Navesink was cleared publicly of charges appearing in the writ that was never delivered. Thus, rather by accident than design, the Navesink towns found themselves vested by Carteret and his council with the very privileges that had been denied them. They had simply taken no notice of the disorganizing assembly of May 1672, nor had Woodbridge joined the element stirring up rebellion. In fact, Samuel Moore was a tower of strength to the proprietary interest.[17]

Although the rebellion centered at Elizabethtown, Newark, with her strong dedication to New England's way of self-government, had been drawn into it. The day before the meeting of the illegal assembly of May 14, 1672, Newark's representatives, Jasper Crane and Samuel Swain, were instructed by the town meeting "to consult with the rest of the representatives of the Country, to order Matters for the safety of the Country." These men had represented Newark at the March meeting. When Bollen, Pardon, and Moore returned in May 1673, Newark was in a tight spot. At the town meeting on July 1 it was unanimously voted to petition the proprietors for the removal of "Grievances incumbent, and obtaining of what may be necessary for the Good of the Province, and of this Plantation." Those signing the petition would share proportionately the expenses involved in bringing it before the proprietors. A committee consisting of Jasper Crane, Robert Bond, Samuel Swain, Henry Lyon, and Samuel Kitchell was chosen to consider with representatives of other towns. The committee was authorized to consult with Mayor Delavall of New York, James Carteret's father-in-law, about the expense of sending an agent to England, and the town meeting agreed to underwrite the expense of the mission.[18]

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[16] *N.J.A.*, 119-121.

[17] Stillwell, *Historical Miscellany*, II, 168-170.

The leaders of Newark appealed to John Winthrop, Jr., governor of Connecticut, for his assistance, since many of them came originally from that colony. On July 2 Samuel Willis, one of the Connecticut magistrates, actually wrote to Sir George in behalf of the Newark settlers, testifying to the good reputation of Jasper Crane, John Ogden, Robert Bond, Abraham Pierson, and others residing in New Jersey. He stated that they would be welcome in Connecticut if they chose to return. Great encouragement, he pleaded, should be given men undertaking to subdue a wilderness, and, if given, progress and prosperity would result. He suggested to Sir George that if the colony were further subdivided into townships, great advantage would follow. Willis was arguing for greater autonomy and local independence for the townships, as in New England. Thinking that Connecticut was endeavoring to persuade her former inhabitants to return, Deputy Governor Berry protested to Winthrop. The latter on July 29 assured him that he had always favored the planting of New Jersey and promoting the increase of such plantations.[19]

Much of the discontent in the East Jersey towns stemmed from that of the English inhabitants of Long Island. The Long Island settlers strove to maintain the integrity of their township form of government against the county and province rule of their proprietary governors. They demanded an assembly but were disappointed when Nicolls, in 1665, merely submitted a prepared code, "the Duke's laws," for their approval and made no provision for future assemblies. They threatened to appeal to the King over the Duke's head, though they desired nothing more than to be united to Connecticut. After the Hempstead assembly, the Long Island towns were noticeably uncooperative. The governor even had to assess a fine of £5 to compel unwilling townsmen to assume the office of constable when chosen. In Flushing and Jamaica, freemen were taken to task for alleged seditious utterances and practices. In Elizabethtown the attitude was just as truculent, though directed more personally against Philip Carteret because of his interference.

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[18] Newark Recs., 44, 50.

[19] Hatfield, *History of Elizabeth*, 151-153.

As in East Jersey, the continuing grievances were land titles, quitrents, and trade. Nicolls had ordered that all Indian purchases be confirmed by him. Unless there was central registration, he argued, the Indians, not understanding the concept of property, would not hesitate to sell the same tract of land more than once. But the Long Islanders, like their neighbors in East Jersey, were land hungry. Moreover, they too had avoided confirming their patents in order to keep their names from the quitrent rolls. In 1669, when they held that their land rights should be confirmed without the necessity of renewing their patents, Governor Lovelace told the town of Easthampton, for example, that all patents should be registered, if for no other reason than to curtail boundary disputes between neighbors. Though court action was instituted to compel registration, countless Long Island patents were unconfirmed at the time of the Dutch reconquest in 1673. The inhabitants of Oyster Bay stated that they would renew their patents when a popular assembly was authorized, while those of Southampton argued that, since they had purchased directly from the Indians, the Indian title was sufficient. They added that use insured adequate title and boldly asserted that they, not the Duke of York, were the true owners.

The Long Islanders resented the payment of customs duties, particularly at the same rate as required at the port of New York, and were angered when Nicolls placed a deputy collector on Long

Island to prevent smuggling. Furthermore, they claimed that the imposition of "the fort tax," a tax to maintain Fort James, was an infringement of their liberties as Englishmen. Lovelace ordered that the signers of a remonstrance at Huntington be prosecuted. During this tug of war the Duke's governor maintained that land titles must be confirmed by a renewal of titles, that quitrents must be paid, that duties must be paid on all cargoes, that trading at New York could not be free of duties, and that his instructions did not permit him to call an assembly.[20]

The rebellion in East Jersey did not end the revolt of the colonists against the proprietary government. This conflict, which endured throughout the entire proprietary period, was precipitated in large measure over the payment of quitrents. Until the date of the first payment, March 25, 1670, drew near, the relations of Carteret with the inhabitants, even in Elizabethtown, were not acrimonious. When it became apparent that the governor would insist upon the collection of quitrents, two developments took place. First, attempts were made to show that their collection was illegal; and, secondly, the claims of the colonists were extended to a repudiation of other proprietary rights. Many of the contentions of the settlers had little basis in fact.

The Dutch reconquest of New York on July 30, 1673, though not an improbability, was a shock. The occupation lasted from July 1673 to November 1674. Nathan Gould, of Stamford, relates that on July 11 the Dutch fleet captured the sloop on which Captain James Carteret and his wife were traveling to Carolina and that these two were landed on Point Comfort. The ship's captain, Samuel Davis, and a trader, Samuel Hopkins, of Elizabethtown, who had an interest in the cargo, were kept aboard as the Dutch flotilla set sail for Manhattan. On the promise of having his ship and her cargo restored if he would tell the truth, the Dutch interrogated Davis regarding the strength of the English in New York. Davis boldly asserted that Governor Lovelace commanded 150 pieces of ordnance and could raise quickly 5,000 men. But Hopkins contradicted this recital, maintaining that there were only 60 to 80 militia at the fort, only 30 to 36 pieces of ordnance, all in poor condition, and that it would take three or four days to assemble as many as 300 defenders. When this was learned "then all theyr cry was for New Yorke," and a few days later, almost without opposition, the Dutch landed 600 men and took the town. Hopkins, a son-in-law of Captain Nathaniel Turner, of New Haven, had settled in Elizabethtown in 1670 and had become a member of the popular party. For his cooperation with the Dutch he was appointed *schepens* of that town and, soon after, secretary of the province.[21]

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[20] Jerome D. Reich, *Leisler's Rebellion* (Chicago, 1953), 11-19.

On August 12, hardly two weeks after the conquest, John Baker, Jacob Melyn, John Ogden, and others representing the villages of Elizabethtown, Newark, Woodbridge, and Piscataway asked permission to send delegates to the Dutch war council to treat regarding the terms of their surrender, and they requested, further, that no audience be granted Deputy Governor John Berry until they had met. In acceding to this request the council ordered Bergen, Middletown, and Shrewsbury also to send delegates to the meeting. The meetings were held in the City Hall of New York, renamed New Orange. Two admirals, Cornelius Evertsen and Jacob Benckes, presided; the other members were Captain Anthony Colve, Captain Nicolaes Boes, and Captain Abram Van Tyll. Shortly after, the council was reduced to Benckes, Evertsen, and Colve. In September 1673 Colve was appointed governor, and he administered the conquered territory from Fort James, renamed Fort Willem Hendrick.

On August 18 in response to the petition of the East Jersey towns, the terms of the occupation were announced. The inhabitants were granted the same privileges and freedoms as the native-born subjects of Dutch towns; they would enjoy title to their lands and in due time their titles would be confirmed; none would be impressed so long as they comported themselves quietly, but their boats and ships would be subject to seizure. The Dutch laws of inheritance would be in force. No one might settle in Achter Kull (East Jersey) or in New York without the consent of the governor, but anyone might leave within six months on condition that he was free of debt and had obtained a passport. Freedom of conscience was identical with that of the Netherlands. These privileges, granted first to Elizabethtown, Newark, and Piscataway, were extended to Woodbridge, Shrewsbury, and Middletown. Upon the petition of the plantation owners, represented by John Berry, William Sandford, and Samuel Edsall, the council granted them the same privileges.

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[21] *N.J.A.*, I, 121, 152-153; Hatfield, *History of Elizabeth*, 154-156, 161.

On the next day, August 19, the council held another meeting with the representatives of the East Jersey towns to discuss the organization of their local governments. Each of the six towns was ordered to hold a town meeting and nominate by plurality vote six candidates for the office of *schepens*, or magistrate, of whom the council would appoint three, in accordance with the Dutch system. Moreover, each town would choose two men as deputies, and this board of twelve would nominate three persons for chief *schout* and three for secretary. From the two lists the council would elect one for each office. This procedure was also followed with the conquered towns of New York and Long Island.

In pursuance of these orders Elizabethtown nominated six as magistrates, of whom the council appointed John Ogden, Sr., Samuel Hopkins, and Joseph Melyn; Newark, Jasper Crane, Robert Bond, and John Ward; Woodbridge, Samuel Dennis, Obediah Holmes, and Stephen Kent; Shrewsbury, John Hance, Eliakim Wardwell, and Hugh Dyckman; and Piscataway, John Smalley, Nicholas Bowman, and John Denton. The Navesink towns also made nominations. Bergen was treated as a separate district. The inhabitants submitted proper nominations, and the council appointed Claes Arents *schout* and secretary and Gerrit Gerritsen, Elias Michielsen, Thomas Frederiks, Peter Marcelissen, and Cornelis Abramse as *schepens*.

On September 1 the council elected John Ogden as chief *schout* of Achter Kull and Samuel Hopkins as secretary. The chief *schout* together with the *schepens* of each town was authorized to administer the several towns under the council, and the secretary was ordered to conduct the affairs of that office in accordance with Dutch law. The inhabitants of the towns were enjoined to obey the orders given them by the chief *schout* and the *schepens*. Captains Kuyff and Snell were commissioned by the council to administer the oath to the inhabitants of the six towns.

On September 14 Kuyff and Snell reported to the council, and their figures provide excellent data on the population of the towns in 1673. Elizabethtown numbered 80 men, of whom 76 were present and took the oath; Newark, 86 men, with 75 taking the oath; Woodbridge, 64 men, of whom all but one took the oath; Piscataway, 43 men, all of whom took the oath; Middletown, 60 men, of whom 52 were present; and Shrewsbury, 68 men, of whom 38 took the oath and 18 Quakers promised allegiance. Two weeks earlier the council had visited Bergen and held a roll call of its inhabitants and those of its adjoining settlements. Sixty-nine of 78 appeared and took the oath of allegiance. The magistrates were ordered to obtain the oaths of the absentees. Thus, counting those of Bergen, the total number of males from the seven towns was 469. Making allowances for a few people in remote places and reckoning five to the family, the population of East Jersey in 1673 was about 2,500.

Kuyff and Snell, by order of the council of war, swore in the militia officers of the six towns as follows: for Elizabethtown, Jacob Melyn, captain, Isaac Whitehead, lieutenant, and John Woodruff, ensign; for Newark, Samuel Swain, captain, John Ward, lieutenant, and Samuel Kitchell, ensign; for Woodbridge, John Pike, captain, John Bishop, lieutenant, and Samuel Dennis, ensign; for Piscataway, Benaiiah Dunham, captain, John Snow, lieutenant, and John Longstaff, ensign; for Middletown, Jonathan Holmes, captain, John Smith, lieutenant, and Thomas Whitlock, ensign; and for Shrewsbury, William Newman, captain, John Williamson, lieutenant, and Nicholas Browne, ensign.

In October, Governor Colve issued a statement to the *schouts* and *schepens* for their guidance and instruction. The appearance of this manual completed the organization of the Dutch government. The local officials were ordered to see that no hindrance was allowed to the practice of the Reformed Christian Religion according to the Synod of Dortrecht. The local *schout* would preside at all meetings or sessions of court, and the magistrates might determine all cases involving 60 florins (beaver value) or less without appeal. In cases of from 60 to 240 florins in value, appeal could be made to a meeting of the *schout* and the local council, who would have final authority. The minority must submit to the majority, but the former might record their dissent if it was not publicly announced. In cases involving more than 240 florins, the plaintiff was entitled to appeal to the governor and his council. Criminal offenses also must be brought before the governor and his council.

The local *schout* was required to bring the prisoner before them with correct information regarding the case. Minor misdemeanors, such as quarrels, threats, and fist fights, were left to the jurisdiction of the local magistrates. The *schout* and the *schepens* were also delegated power to issue ordinances for the general welfare, such as laying out streets and erecting churches, schools, and similar structures, and for the observance of the Sabbath. They were instructed to apprehend and punish anyone tampering with the notices containing the ordinances of the central government, and they themselves must execute all orders sent by the governor. All local officers must acknowledge the rule of the States General and the Prince of Orange.

The local *schout* was required to execute the magistrates' judgments and not discharge a prisoner except by order of the court. He must rid his jurisdiction of all mobs, gamblers, whore houses, and "such like impurities." For these and other services he was entitled to half of the civil fines and a third of the income from criminal cases, but he was forbidden to accept presents. The *schout* and the magistrates were to nominate annually six candidates for the office of magistrate who in their judgment were the best qualified. The governor would then appoint the new magistrates, but he might continue some in office if he wished. Identical instructions were issued to Bergen, but with the proviso that local jurisdiction, close by Manhattan, would end with cases of 60 florins in value.

Few matters of great moment occurred in East Jersey during the Dutch occupation. *Schout* Ogden and Secretary Hopkins were ordered to take an inventory of Carteret's property and possessions. They reported that Vauquellin, the surveyor general, had carried away some of the governor's effects. They were directed to arrest him. In addition they were ordered to compel James Bollen, the former secretary, to give up Carteret's papers. John Berry and William Sandford, former council members, requested that the papers of the late government be kept in the secretary's office and not be given into Hopkins' personal custody. Edsall and Bollen joined Berry in demanding that they be entrusted to Secretary Bayard of New Orange since they feared that Hopkins was making away with some of them. The council granted their request. When Vauquellin was brought before the council, he denied the charges brought against him, and Ogden was summoned to furnish proof. Vauquellin, convicted of disobeying Ogden's orders to restore the goods removed from Carteret's house and of stating that the Duke of York would return to Fort James within half a year, was sentenced to banishment "as an example to others."

On September 13 the council of war received the chiefs of the Hackingsack Indians, who represented that they wished to live at peace with the Dutch. They brought as presents twenty deer skins, several lap robes of beaver, and a string of wampum. The council reciprocated by giving the Indians pieces of checkered linen, twelve pairs of woolen hose, and five cartridges of powder.

The council on September 27 warned the magistrates of Shrewsbury and Middletown to report the appearance of any ships off New York Bay. On the same day Governor Colve disqualified as magistrates of Shrewsbury Quakers John Hance and Eliakim Wardwell, "persons whose religion will not suffer them to take any oath or administer the same to others." The inhabitants were instructed to nominate four others "of the true Protestant Christian religion," of whom he would appoint two. December 2 was proclaimed a day of humiliation and thanksgiving by Colve and his council, an observance that would be repeated on the first Wednesday of each month. On such days there would be no work, no hunting and fishing, and no drinking. Tavern keepers were forbidden, upon penalty of corporal punishment, to retail liquors on these days. The Dutch government exercised surveillance over the movement of persons in their territories.

In January 1674 Chief *Schout* Ogden petitioned the council on several matters. One was a request that the records of the Carteret government be lodged with Secretary Hopkins. To this the council finally agreed. They tabled, however, a proposal that the local court be authorized to inflict corporal punishment such as flogging and lighter penalties. Ogden also requested that the bail bonds of Meaker and Thompson, then in the hands of Samuel Moore, the late marshal, be transmitted to him. The council directed that this matter be settled locally in court. In May 1674 Moore, aggrieved by the judgment of the *schout* and the magistrates of Woodbridge, requested an appeal to the council of New Orange on the ground that Ogden and Hopkins were personally interested in the case. The council, in refusing, notified Ogden that impartial judges must be chosen. In July the matter came to a head. Meaker and Thompson complained that Moore had refused to deliver up the bail bond executed by them in June 1673 to Deputy Governor Berry and that he had refused to appear in court to answer the complaint of William Pardon and others. The governor and the council were convinced that Moore had neglected to deliver the bail bond of Hopkins. They ordered immediate execution and if Moore refused he was to be brought to New York as a prisoner.

In June 1674 a dispute broke out between Piscataway and Woodbridge regarding certain lands. The council ordered that this altercation be settled by a special court consisting of the *schout* and the deputy councilors to whom others should be added to replace those of Piscataway and Woodbridge, who were disqualified. On July 7 Daniel Denton and John Gilman, the agents of Piscataway, complained of the dilatory actions of Moore and Pike, of Woodbridge. The special court was ordered "to cause quick right and justice to be administered to parties." At the first meeting at Elizabethtown Denton and Gilman explained that the suit was not against the town of Woodbridge but against certain inhabitants there who had seized upon lands belonging to Piscataway. The court, which went into the whole matter with great care, held that the inhabitants of Woodbridge had taken a considerable acreage of meadow, recorded by Governor Carteret, that Piscataway had purchased from Daniel Pierce. Moreover, certain Woodbridge men, prosecuted by Denton and Gilman, had acknowledged that the plaintiffs had a right to a third part of the purchase made by Pierce from Carteret, Ogden, and Watson. If this third was restored to the Piscataway men, the court believed they would be satisfied. After another prod from Colve the special court met again and concluded that the boundary line between the two towns had never been legally settled. It ruled that a sworn surveyor should be appointed by the governor to make a just and exact division, each of the parties to share the expense.

Bergen, with its own *schout* and magistrates, was treated separately from Achter Kull. In December 1673 the *schout* and magistrates of Bergen requested that all the inhabitants, regardless of their religious persuasion, be compelled to pay their share of the support of the schoolmaster. The council granted this petition.

When, in May 1674, Bergen complained that the nearby hamlets had refused to remit their quotas, the *schout* was ordered to proceed against them. A delegation from Minacque and Pembrepow appealed against this decision, to no avail. In July the governor and his council ordered them to pay their share or face the consequences.

In November 1673 the council had referred to the *schout* and the magistrates of Bergen a dispute that had arisen between two principal landowners, John Berry and William Sandford. Berry, dissatisfied with the outcome, appealed the case to the council. In July 1674 the case came before Colve, with Berry as plaintiff and Sandford and Claes Arents as joint defendants. Berry objected to the decision of the lower court, which intimated he had stolen some hogs that were in reality his property. Arents, a local magistrate, insisted that the local court had not convicted Berry of theft but only of removing the hogs without informing any officer. The governor and council, after thorough examination, declared Berry not guilty of theft but of removing the hogs without consent. They modified the judgment of the local court, fining Berry 100 guilders and requiring him to restore the hogs unless within six months he furnished proof of ownership.

Toward the close of the Dutch occupation, in June 1674, three towns, Newark, Elizabethtown, and Piscataway, petitioned Colve and his council for a confirmation of their privileges. Before this they had, in vain, requested the establishment of "an English county" extending from the Passaic to the Raritan. The petition was signed by John Brown, Jr., the recorder of Newark, by Jacob Melyn for Elizabethtown, and by Daniel Denton for Piscataway. On August 18, 1673, the council had granted them the privileges enjoyed by Dutch subjects everywhere, including liberty of conscience and unmolested possession of lands duly patented. These rights and privileges they wished confirmed. But, unknown to Colve and New Orange, the Dutch, in March 1674, had signed a treaty with England providing for a mutual restoration of all conquered territory. As soon as this was known, the rights and privileges in New Jersey became an academic matter. Though the commission of Sir

Edmund Andros bore the date of July 1, Colve continued as governor until Andros arrived in November.[22]

The Dutch interregnum left little imprint upon New Jersey. The council of war and later Governor Colve and his council had governed according to the Dutch colonial pattern. There was no cruelty or vindictiveness; indeed the Dutch officers gave full and patient consideration to their English subjects in Achter Kull and to their Dutch subjects in Bergen. The settlements under Chief *Schout* Ogden of Newark and the deputy council, had the effect of enabling the towns to act in concert. The Dutch occupation, of course, put a stop to all immigration or colonization. In the towns the former resentments remained. The antiproprietary faction more than held its own. John Ogden, Hopkins, and the great majority of the council of deputies and the magistrates were of the popular party. Captain Berry, former deputy governor, enjoyed little influence; William Pardon was lost sight of; and Vauquellin had been banished. The occupation did not last long enough to permit any change in this festering situation. Only Carteret's return was needed to throw the province into turmoil again.

[22] *N.J.A.*, I, 124-160 *passim*; Newark Recs., 50.

CHAPTER V

Philip Carteret's Laws

PHILIP CARTERET had been deputy governor of New Jersey until 1674; he continued as deputy governor of East Jersey until the sale of the province to the Twelve Proprietors in February 1682. He had arrived in Elizabethtown in August 1665 and left for England in February 1672 as a consequence of the ill-starred rebellion in the province. He returned in November 1674. During his absence John Berry, a member of the council, had been acting deputy governor, but Berry's activity was greatly curtailed because of the Dutch reconquest of New York and New Jersey. In March 1674 Lord John Berkeley, who had little interest in New Jersey, sold his share to two Quakers, John Fenwick and Edward Byllynge. Since Byllynge, the senior partner, was bankrupt, his affairs were temporarily being managed by three Quaker trustees, one of whom was William Penn. The Byllynge trustees, in July 1676, persuaded Sir George Carteret to accept a partition that left him the territory lying east of a diagonal line extending from Little Egg Harbor on the Atlantic to the upper Delaware at 41° 40′ N. At the time in East Jersey only seven towns and their "outter Plantations" had been settled.

Nearly three years elapsed between Philip Carteret's arrival and his decision to organize the government formally. At first, with the assistance of James Bollen, secretary, Robert Vauquellin, surveyor general, and William Pardon, deputy secretary, he administered the province in the same regulatory manner as that in which the Duke's colony of New York was governed. For example, he sanctioned a court of judicature at Bergen, with Nicholas Verlett, a substantial landowner, as president. To settle a local dispute, he summoned the inhabitants of lower Bergen township, in the Constable's Hook neighborhood, to prove their titles. To systematize Indian relations, he issued orders restraining the sale of liquor to Indians and required that Indian traders take out licenses. He granted several men permits for one year to keep ordinaries. The indiscriminate cutting of timber on proprietary lands was prohibited, and Eliakim

Wardwell and several associates were permitted to purchase the Indian title to lands south of the Monmouth patent. In 1667 he authorized James Brackett to survey the bounds of Elizabethtown township. A divorce was granted, a guardian was appointed for a minor, and a hue and cry was raised to permit the capture of an indentured servant.[1]

In 1668, in accordance with the Concessions of 1665, Carteret turned to the organization of a general assembly. As his council he appointed Nicholas Verlett, of Bergen; Samuel Edsall, another large Bergen landowner; Robert Bond, of Newark, formerly of Elizabethtown; and Daniel Pierce, of Woodbridge, one of the founders of that township. The deputy governor presided over the council, and Bollen, Pardon, and Vauquellin also served as ex-officio members. On April 7, shortly after the council was formed, Carteret called upon the freeholders of Bergen, Newark, Elizabethtown, Woodbridge, and the Navesink towns each to elect two representatives to sit in the lower house. Bergen elected Caspar Stynmets and Balthazar Bayard; Elizabethtown, John Ogden, Sr., the founder, and John Brackett, the surveyor; Newark, Robert Treat and Samuel Swain, two of the earliest settlers; Woodbridge, John Bishop, a first proprietor, and Robert Dennis, a signer of the town's charter; Middletown, James Grover and John Bowne, both Monmouth patentees. Bowne also agreed to represent Shrewsbury, which had not chosen representatives. Piscataway sent no delegates to the first assembly.[2]

Between 1668 and 1681 there were seven meetings of the assembly. The laws of the 1668 assembly are of record, but our knowledge of the assemblies of 1669, 1670, and 1671 is unsatisfactory. Since the Dutch reconquered East Jersey in 1673, there were no meetings in that or the following year. Normally the assembly met in the spring or in the fall. The meetings lasted from one to five days, depending upon the amount of business. Elizabethtown, the governor's place of residence, was regarded as the capital, and the assembly met most often there. Other meetings were held, for special reasons, at Woodbridge, Piscataway, and Middletown. At the second session of the 1668 assembly, Middletown and Shrewsbury were represented separately. At the same meeting two representatives "for Delaware River" appeared for the first and last time.

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[1] *N.J.A.*, XXI, 28-29.

[2] See above, pp. 56-57.

The first assembly laid the legislative groundwork for Philip Carteret's long term. In May, after five busy days, the deputies informed the governor that time did not permit consideration of such scheduled matters as the prohibition of strong drink to the Indians, false witness, and breach of oaths. With the consent of the governor and the council these matters were postponed until the November session. In May the assembly voted to meet regularly on the first Tuesday of November, the deputies having been elected the previous January. Actually these meetings usually began in the spring. Extraordinary meetings might take place at the request of the governor and council. Absent deputies were fined 40s. per day, unless the lower house remitted the fine for good reason.[3]

The first meeting of the general assembly was anything but harmonious. The deputies objected to sitting apart from the governor and council, and at the close of the session they demanded joint meetings to put an end to the "many and great Inconveniencies" and the "exceeding diliatory, if not fruitless and endless" exchanges in writing. They threatened to adjourn, "seeing the order of the Concessions cannot be attended to." Perturbed, the governor and council requested that two deputies be appointed to discuss in what respect the Concessions were being violated, and if the deputies were not then satisfied, they might do as they chose, "only we advise you to consider well of your Resolutions before you break up." This exchange ended the matter—for the time being.[4]

The first act adopted by the Carteret assembly made liable to fine or corporal punishment any person resisting the authority of any official either by words or actions. Later in the session this act was reiterated with the proviso that the officers in authority not abuse any man except in self-defense. In November 1675 the clause "resisting authority by words or actions" was enlarged to "either by Wounds, Blows or the like, or by speaking contemptuously, reproachfully, or maliciously, or any of them." Offenders were made liable to banishment as well as fines and corporal punishment by the courts, "from whose Sentence no Appeal to be allowed."[5]

Defense was a primary consideration in East Jersey as in all the colonies. The first assembly provided that every male over sixteen must equip himself with "a good serviceable Gun well fixed, one Pound of good Powder, four Pounds of Pistol Bullets, or Twenty four Bullets suited to the Gun, a pair of Bandeleers, or a good Horn, and a Sword and Belt." Those neglecting to do so would be fined a shilling for the first week's neglect and 2s. for each additional week, the fine to be levied if necessary upon the delinquent's goods and chattels. Indeed all fines entailed the distraint of the offender's possessions if he refused to pay the fine. The November session required men between sixteen and sixty to train for two days in the fall and two in the spring. Officers were fined 20s. for each day missed; soldiers, 5s. per day. The fine for tardiness was 1s. The clerk of the company was authorized to collect the fine and if necessary to distrain. The income from the officers' fines would go to the use of the province; the soldiers' fines would go to the company. The governor, councilors, commissioned officers, justices of the peace, constables, ministers, qualified physicians and "chirurgeons," millers, herders, and masters of vessels of more than ten tons in capacity were not required to serve. As yet there was no exemption for Quakers.[6]

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[3] Leaming and Spicer, 80-81. This volume includes the proprietary laws.

[4] *ibid.*, 90-91.

[5] *ibid.*, 77, 83, 99.

The militia act was re-enacted in somewhat stricter terms in 1675, following the Dutch reconquest. The captains, assisted by the sergeants, were required to see to it that the men furnished the proper weapons; and qualified workmen were required, under threat of imprisonment, to keep all arms in good repair. To safeguard against Indian attacks, each town was ordered to build a fort, maintain it with supplies of arms and ammunition, and provide within it a shelter for women and children. The freemen and the military officers would conclude all arrangements, but in case of disagreement, the governor would adjudicate the differences. If a town refused to carry out the mandate of the law, the militia was authorized to enforce it, and if any townsman refused to assist, he was fined 3s. a day, the fines to be used for the improvement of defense. Each town must stock a half-barrel of powder and 160 pounds of lead, and those neglecting to do so were fined £5 per week. In November 1679 the training act of 1668 was re-enacted with little change. The fines for nonattendance were halved. Anyone refusing to obey an officer would be brought before the county court and, if convicted, would be punished "according to the merit of the Cause."[7]

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[6] *ibid.*, 78, 85, 86.

The first assembly passed a revenue bill of £30 for the support of the colony. Each of the towns, except Bergen, was responsible for raising £5, to be paid to Jacob Melyn, of Elizabethtown, the first collector. He was to turn over £20 to James Bollen, the secretary, and keep the remainder in his custody. A code for payment in kind was adopted: winter wheat was evaluated at 5s. per bushel, summer wheat at 4s. 6d., peas at 3s. 6d., corn at 3s., rye at 4s., barley at 4s., beef at 2½d., and pork at 3½d. In November, at the second session, the provincial tax total was set at £72, with each town raising £12. Piscataway was not represented until 1675. Following the Dutch surrender in 1674 the list of equivalents was revised and expanded: peas were valued at 3s. per bushel, beef at 2d. per pound, pork at 3d. per pound, tallow at 6d., green hides at 3d., dried hides at 6d., bacon at 6d., hogs at 6d., tobacco at 4d., beef per barrel at £2 10s., and pork per barrel at £3 10s. These regulations are revealing of the early price structure in East Jersey.

At the same session, in order to pay off the provincial debt, a tax was authorized on lands taken up, on the lands of nonresidents, on persons "who make a great benefit of the timber," on tradesmen who were not freeholders or landowners, and on the town commons. A year later the tobacco equivalency was reduced to 3d. per pound, and fatty hogs were excluded. The constable was empowered to require the inhabitants to appoint the time and place for paying taxes and to proceed by distraint against delinquents. The township was held responsible for the constable's delivering the taxes to the provincial treasurer, and should he fail to do so, the marshal was authorized to seize his goods and chattels. The tax total for the year 1676 was reduced to £50. In 1677, learning that the constables and marshals were performing badly, the assembly ordered that unless they attended to their duties in tax collecting their goods would be seized. At the same assembly a levy of £80 was adopted for paying off the provincial debt, to be paid, as in 1676, in wheat, rye, corn, beef, pork, and tobacco. In 1678 the land tax was renewed, and the amount to be raised was increased to £100 12s. 6d. The next year the tax levy to care for the obligations of the government, past and present, was set at £196 18s.[8]

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[7] *ibid.*, 94-96, 135-136.

It was not until 1675 that any provision was made for the governor. The assembly began by allowing him 5s. for using the seal on any document except a land patent or public instrument, but, before the assembly adjourned, a special appropriation of £50 was voted in consideration of his expenses for a trip to Delaware, for treating with the Indians and for similar public charges. Authorization was granted for a voluntary subscription to care for the arrears due the governor, to be collected by the constables in installments over a three-year period. Then, recollecting that the tenth article of the Concessions stipulated that the assembly should provide for means to contribute to the maintenance of the governor as well as defray the charges of government, it was agreed that some appropriation should be made.

In spite of the assembly's good intentions, there was no grant. In 1676, noting that few had subscribed to the arrears fund, the assembly directed the freeholders of each town to form a committee to take up subscriptions, and if the response was inconsiderable, their selectmen were authorized to lay a compulsory assessment. Finally, in October 1676, the governor was voted an allowance of 2s. for every male over fourteen, to be paid in wheat, peas, or tobacco. The constables were instructed to compile a list of ratables, appoint a day of payment, collect the levy, and distrain against those refusing to pay. This act was renewed the following year, with provision for payment in wheat, corn, rye, or tobacco; and in 1679, with payment in tobacco disallowed.[9]

The first assembly, following New England precedent, enacted a code of criminal law relating to murder, sodomy, buggery, rape, adultery, arson, burglary, stealing, false witness, vicious children, night revelry, and conspiracy, to which were added, before the session concluded, laws dealing with unlawful marriage, fornication, drunkenness, swearing, and killing. Most of it was suggested by the Duke's Code of 1665—in turn derived from the New England colonies—which was in force before Berkeley and Carteret organized the government of New Jersey.

[8] *ibid.*, 81, 90, 98, 120, 122, 127-128, 137.

[9] *ibid.*, 109-110, 117, 130, 136.

The death sentence was prescribed for willful murder, strangling or smothering to death, false witness "with the intention to take a life," buggery, and sodomy. The punishment for arson was imprisonment without bail, full satisfaction for damage, then standing at the mercy of the court whether on trial for life or corporal punishment. Burglary could also lead to the death penalty. For the first offense restitution was demanded together with the branding of the letter *T* on the hand; for the second offense, restitution with the branding of the letter *B* on the forehead; and for the third, death as an incorrigible. For stealing, triple restitution was exacted for the first three offenses, and if restitution could not be made because of poverty, corporal punishment; then the death penalty could be invoked if the offender was judged incorrigible. One judged guilty of being a witch was put to death. The penalty for rape was death, unless the court directed instead severe corporal punishment. Adultery was less severely dealt with, the penalty being divorce, corporal punishment, or banishment, or, at the direction of the court, all three. Persons guilty of fornication must marry if single; if married persons were involved, the punishment was fine or corporal punishment or both, and the guilty persons must furnish security for protecting the community against the charge of caring for bastards.

Children above sixteen who attacked or cursed their parents would be put to death unless attempting to preserve themselves from death or maiming. Young persons wandering about after nine at night would be arrested by the constable, tried at the next court, and if unable to give an account of themselves receive such punishment as the justices saw fit. For "that beastly Vice, Drunkedness," the fine was 1s. for the first, and 2s. 6d. for each subsequent offense. Those unable to pay would receive corporal punishment, and drunkards disturbing the peace would be placed in the stocks until sober. Persons taking the name of God in vain would be fined 1s. for every offense, one half to go to the informer, the other to the province. Finally, it was provided that no man would suffer the death penalty unless his crime was proved by the evidence of two or three "sufficient witnesses."[10]

In 1675, following the English reoccupation, the criminal code was re-enacted practically without change. Each town was ordered to provide a pair of stocks "for securing of offenders." In 1677, alleging that "great Exorbitances and Drunkeness were observeable," it was made illegal for anyone to purchase strong drink, wine, cider, or beer at any place except a licensed tavern. The penalty, 10s., was high, and the constable, on a warrant from the justice, might distrain against the offender. A third of the fine went to the informer, the remainder for the benefit of the poor of the town.[11]

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[10] *ibid.*, 78-80, 83-84.

In 1675 those guilty of disseminating false news, "whereby the minds of People are frequently disquieted or exasperated in relation to publick affairs," were fined 10s. If the offender had no estate, he would stand at the mercy of the court. If convicted a second time, he would be whipped or put in stocks, depending upon the seriousness of the offense. In October 1677 it was voted that any person giving rise to rumors damaging to another would also be fined 10s., and for the second offense, 20s. Persons unable to pay the fines would be placed in the stocks—for the first offense, two hours; for the second, four hours; and for the third, corporal punishment.[12]

Carteret's assemblies, then, had declared willful murder, buggery, sodomy, rape, false witness, the smiting of parents, man-stealing, and witchcraft to be capital offenses. These crimes merited the death penalty in New England also, but the East Jersey laws did not cite the Pentateuch in support of it. In East Jersey, blasphemy, adultery, the worship of false gods, and the rebellion of a son were not, as in New England and in the Laws of Moses, designated as capital crimes. Conspiracy against the colony, however, called for the death penalty. In England, kidnaping and perjury were misdemeanors only, and parent smiting was not covered by law. In East Jersey, arson, burglary, robbery, and larceny in the first instance required restitution, but might result in the death penalty. In England, arson was a felony without benefit of clergy, and if the crime was a heinous one, the offender could be placed on trial for his life. For burglary and robbery, the New England code and the Duke's laws stipulated the death penalty, while the English code granted benefit of clergy in order to mitigate the harshness of

[11] *ibid.*, 104-107, 127-128.

[12] *ibid.*, 103, 123-124.

the law and the Carteret code combined restitution and corporal punishment. In only one respect was the Carteret code more severe than that of New England. In the case of larceny, if the thief was judged incorrigible, the death penalty might result. Yet in England the offender guilty of stealing more than 12d. was punished by death unless benefit of clergy was granted. In short, the Duke's laws, which had extended the New England code to the borders of Maryland, were mitigated slightly by the first East Jersey assemblies. The assemblies of the Twenty-Four Proprietors from 1682 to 1702 were to humanize them further.

As in other American colonies, the regulation of marriage was a matter of concern. Thus the first assembly forbade persons to marry without the consent of their parents, and, in the case of servants, without that of the master or overseer. The intention of marrying must be announced publicly at the church or the town meeting at least fourteen days before the ceremony. Only a qualified minister, a justice of the peace, or some "chief officer" was permitted to perform the ceremony. The penalty for illegal performance was a fine of £20 and removal from office. The governor was allowed to grant licenses to marry to "persons that are of their own disposing" and to others whose parents or masters had consented. The marriage law was re-enacted in 1675.

At the December 1675 session the assembly passed a law, common to most northern colonies, punishing those profaning the Sabbath. Anyone engaging in servile work, unlawful recreation, or unnecessary travel, that is, not falling within the compass of works of mercy or necessity, would be punished by fine, corporal punishment, or imprisonment—at the discretion of the court. Moreover, anyone disturbing the minister during divine service would be arrested and bound over to the next court to receive such punishment as the court should determine. In 1677 this legislation was added to. Any inhabitant who entertained disorderly persons on the Sabbath and who failed to call upon the constable for aid would be fined 10s. for the first offense and 20s. for each additional offense. Constables hearing of unseemly behavior, such as staggering, reeling, cursing, swearing, quarreling, or singing "vain tunes," were ordered to put the offenders in the stocks for two hours. The inhabitants were required, if requested, to assist the constable. A third of the fine went to the informer, the remainder to a fund for the poor in the community.[13]

The first assembly also enacted a code for indentured servants. Any servant or apprentice who deserted his master must serve double the time of his absence and make good the costs to the master. Anyone assisting a runaway was fined £5 plus the damages suffered by the master, and any person sheltering a runaway was fined 10s. for each day of concealment. This act, too, was re-enacted in 1675.[14]

Since practically every settler owned livestock, its regulation was a necessity. The first assembly required every community to maintain a pound. The owner must pay the damage done to another's crop by his animals, but not if the fencing was adjudged inadequate. Each town appointed two freeholders who would make an examination from time to time of all fences. Any person breaking into a pound was fined £5. At the fall session, laws were enacted regarding branding. Each town was required to brand its town mark on the right buttock of horses and on the left horn of cattle. An owner was required to pay a fee of 6d. per animal for the marking and the recording, of which the brander received 2d. There was a fine of 10s. for each default. Similarly all sales of animals must be recorded in the town book. The fee was 3d. per head, the fine for nonperformance, 40s. All owners must brand their individual marks on their stock, and these marks, together with the animal's description, must be recorded.

In 1675 additional legislation dealt with the vexing problem of livestock. It was stipulated that no one might take up stray horses or hogs on the common unless he notified the constable. Anyone disobeying this law would be dealt with as a trespasser, and anyone attempting to take a stray out of the township would be fined £5. In April 1676 the assembly returned to the problem of fencing. Henceforth fences enclosing crops or orchards must be four feet, three inches high and kept in good repair. The constable and two selectmen were authorized to bring any neglectful farmer to court. This statute, in addition, provided an equity for the man who first fenced in common land, in order that the burden would be shared by latecomers.

[13] *ibid.*, 81-82, 98-99, 108.

[14] *ibid.*, 82-83, 109.

The 1676 assembly dealt with other phases of the livestock code. The fee for branding and recording the town mark was reduced to 2d. per animal. Owners of stock and horses who moved to another township were required to place the brand of the new town over the old brand. Swine or horses put in pound could be recovered by the payment of a flat fee, 3s. 6d. A fine of 1d. for impounding trespassing cattle was paid the keeper. Owners of livestock in pound must also pay the cost of maintenance. Owners of unruly livestock, hogs, or horses must, at the risk of being proceeded against for breach of order, keep them fenced and, if necessary, fettered and yoked. In 1677 all livestock over two years of age, unmarked, were designated as strays. They were to be "duly cried" on three separate occasions, and, if reclaimed, the owner must pay the charges of maintenance at the summer rate of 1s. 6d. per week or at the winter rate of 1s. 8d. If not reclaimed, the stray would be disposed of. Because of complaints that hogs were still rooting up meadowland, the assembly ordered the townships to adopt stricter regulations. At the next assembly it was specified that no one might plant wheat without first fencing his field. In addition a heavy fine of £5 per tree was imposed upon anyone taking out of the province trees from unpatented lands. At the first assembly a bounty of 15s. was ordered paid by the treasurer on every grown wolf killed within township bounds, and this bounty was continued throughout Carteret's regime.[15]

At the first assembly it was ordered that the weights and measures used in New Jersey must parallel those of New York. In 1676, however, to conform more closely to English practice, each town was required to maintain wet and dry measures, "tryed and sealed" by inspectors chosen by the freeholders, which all shopkeepers and others might use, on the payment of a small fee, to test the accuracy of their own measures. Another law required each town to choose a packer whose duty it was to see that all barreled meats were merchantable, well packed, and well salted; that the cask was of seasoned timber and bore the cooper's mark; and that it contained 32 gallons. For supervising the packing, the packer received a fee of 8d. per barrel. Since several towns were unable to provide standards of weights and measures, the province treasurer was directed to supply them for the use of the inhabitants.[16]

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[15] *ibid.*, 82, 86-87, 101-102, 112-115, 127-128, 130, 137.

Before the assembly had been organized, Governor Carteret by executive order licensed several inns or ordinaries. In 1668 each town was instructed by the assembly to provide an ordinary "for the relief and entertainment of strangers," and any town failing to do so was fined 40s. each month. The innkeeper was granted his license from the provincial secretary upon guaranteeing to furnish meat, drink, and lodgings for strangers. No one, except ordinary keepers, was permitted to sell less than two gallons of alcoholic beverage to any person. In 1677 the assembly, reversing itself, permitted the sale of small amounts and set maximum prices to be charged by ordinaries: for strong liquors, 10s. 8d. per gallon, or if by the quart, 2s. 6d.; for good white wine, 7s. per gallon; for cider, 4d. per quart; for a meal, 8d.; for natural summer pasture for a horse, 6d. per day; and for a peck of oats, 9d.[17]

The assembly of 1668 considered Indian affairs during the fall session. The governor, Melyn, Verlett, Treat, and Dennis were delegated to treat with the Indians regarding stray horses and cattle that were causing damage and ill will. On learning that an Indian had killed an Indian boy, the assembly sent two men to the chief demanding that the murderer be surrendered to the governor. The assembly could not but "look on themselves deeply injured with them, and if they do harbour or allow the Murderer to be amongst them and not deliver him, it will be such an Offence as they shall forever Remember against them until satisfaction be given to them." The same assembly forbade any settler without a license to buy animals or skins from the Indians, on pain of a fine of £10. Because of Indian troubles in New York the militia act was adopted to safeguard East Jersey against Indian "insolency and outrages." Moreover, the settlers were forbidden, subject to a fine of £10, to supply the Indians with arms or ammunition. No blacksmith or locksmith or anyone else might repair an Indian's gun. For the first offense the fine was 20s., for the second, 40s.

In October 1665 Governor Carteret had issued an order forbidding the sale of liquor to the Indians, but no legislation on this subject reached the statute books until 1677. In October of that year

[16] *ibid.*, 116, 119-120.

[17] *ibid.*, 87, 128.

the assembly ordered that anyone guilty of supplying strong drink to the Indians be fined 20s. In 1679 the assembly, meeting at Middletown, appointed a delegation from the council and the lower house to meet with the Indians to effect the curtailment of the traffic in drink. On May 29, meeting at Piscataway, the assembly adopted strong measures. Anyone selling, lending, or giving strong drink to the Indians would be given twenty lashes for the first offense, thirty for the second, and, for the third, imprisonment at the governor's pleasure or any other penalty the court might think fit. Any constable, justice, or settler was required to arrest any intoxicated Indian. The magistrate must ascertain where the Indian had obtained the liquor, arrest the offender, and if he was judged guilty, turn him over to the constable for punishment. In December, at the regular meeting of the assembly, this act was renewed for a year, and in July 1681 it was re-enacted. The statute of 1681 added that anyone having knowledge of violations of the law must make it known to a magistrate or suffer the same penalty as that of a man convicted under the act. A heavy fine of £20 replaced corporal punishment, but if the guilty person could not pay the fine, he would be given twenty lashes by the county marshal. The proceeds from such fines would be divided equally among the informer, the law-enforcement agency, and the poor of the county. Any person prosecuting a violator of this law would receive £5 from the province treasurer.[18]

Although the Concessions gave the general assembly power to constitute courts, no steps were taken to organize a provincial judiciary until November 1675. In making the Monmouth grant of April 1665, Governor Nicolls had accorded the patentees the right to try cases of debt and trespass up to £10 without appeal, but he required that all criminal cases be referred to the court of assize at New York. No mention of the privilege of courts was made in the Elizabethtown patent of December 1664. In August 1665, on his arrival, Carteret commissioned a local court of judicature for Bergen and, shortly after, one for Woodbridge. In October 1670 he announced that any settler in the province might bring an action of debt to either of these courts on a warrant issued by himself or by a justice of the peace. In Newark by the covenant of October 1666 the members of the town meeting agreed to submit to such laws and orders "as they had in the Place from whence they came, under such Penalties as the Magistrates upon the Nature of the offence shall determine." At a town meeting in January 1669 a petty court, meeting twice a year, was established, and a jury of six men was provided for. Meanwhile in October 1667 Robert Treat refused a commission as justice of the peace tendered him by Carteret. Two years later the Newark constable was ordered by the governor to announce the recall of the commissions of Treat and Crane as justices of the peace. Newark seemed unwilling to enter into a central judicial system.

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[18] *ibid.*, 68, 88-89, 103, 125, 133-134, 137-138.

The assembly of 1675, realizing that more courts were needed, provided a comprehensive set of tiers. At the bottom were the monthly courts of small causes that would enable persons to recover sums of money and damages of less than 40s. Such actions, which would not support the charges of a jury trial, were tried by two or three selectmen chosen annually by the freeholders. These local magistrates were granted the power of summons, of hearing the evidence, and of executing the verdict. Only one of those on the bench had to be a justice of the peace. If the defendant was poor, the court was empowered to give him "time and space for the payment thereof." Richard S. Field points out that this provision was the origin of New Jersey's vaunted "stay of execution," a distinguishing feature of her petty courts system. The fees were small indeed: 4d. for a warrant, 4d. for entering an action, 4d. for entering a judgment, 6d. for execution, 6d. for each witness, and 3d. each for the selectmen who decided the case. From the start well-known men sat on the monthly court bench: in Elizabethtown in 1676-1677, William Pardon, the deputy secretary, was justice of the peace, and he was assisted by John Ogden, Sr., Henry Lyon, and George Ross; at Newark, John Ward was justice, and he was assisted by Samuel Swain and Thomas Johnson; at Piscataway, John Smalley was justice, and his assistants were Edward Slater and John Martin, Sr. In 1679 Henry Greenland succeeded Slater, who was in political difficulties. In Woodbridge in 1680 John Pike was president, and among the assistant magistrates were Samuel Dennis and John Bishop.[19]

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[19] *N.J.A.*, I, 46; Leaming and Spicer, 62-63; Newark Recs., 2, 4, 14; *N.J.A.*, XXI, 29, 30, 38, 39, 40, 42, 44.

The county, or sessions, court met twice a year, in March and October, in districts designated for the first time in November 1675 as counties: Bergen and its outlying areas, Elizabethtown and Newark townships, Woodbridge and Piscataway townships, and Middletown and Shrewsbury townships. The county court was given broad jurisdiction, for it could try "all causes actionable," with no appeal allowable except "to the bench or the court of chancery." The county court dealt with cases involving from 40s. to £20. The judges were elected and had to be residents of the county where the court was located. Like those of the petty courts, they ranked high in their several communities: in November 1675 for Woodbridge and Piscataway, John Pike was commissioned president, and John Bishop, Sr., Stephen Kent, Thomas Blumfield, and Samuel Dennis, assistants or magistrates. In March 1676 Sandford was commissioned president of Elizabethtown and Newark, with William Pardon, of Elizabethtown, and John Ward and Robert Bond, of Newark, as assistants. In 1679 Daniel Hooper, of the council, was added, and Bond was replaced by Thomas Johnson, of Newark. In 1676 John Berry was commissioned president of the Bergen county court, with Samuel Edsall, Lawrence Andress, Elias Michielson and Engelbert Steenhuysen as assistants. In 1681 Andress became president, with Edsall, Michielson, and Gerrit Gerritsen as assistants. In 1677 John Bowne was president of the Middletown-Shrewsbury court, with James Grover and Joseph Parker as assistants. In 1678 Richard Gibbons and Jonathan Holmes, both of Middletown, were added. Despite political changes, the membership of the county courts changed slowly. In August 1681, near the end of the Carteret regime, Henry Greenland had become president of Woodbridge-Piscataway, and Bishop, Smalley, and Dennis were still members; in Bergen, Gerritsen was the only new man; while in Elizabethtown-Newark, James Bollen, the provincial secretary, was president, and Henry Lyon, of Elizabethtown, and Samuel Swain and John Catlin, of Newark, were the assistants.[20]

The county court, where most of the important cases were tried, was given a schedule of fees by the assembly, the most pertinent of which were as follows: to each justice, 7s. 6d.; to each juryman, 9d.; the clerk's fee for summoning and entering, 2d., for entering judgment, 9d., and for an execution, 1s. 6d. The county courts, with both civil and criminal jurisdiction, foreshadowed the court of common pleas. The assembly in 1676 provided that if the plaintiff withdrew after a jury was summoned, he would bear the charges of the court and the jury. If the case was withdrawn after it was argued, the plaintiff must bear the entire cost of the trial. It was voted that the summons in a case before the petty courts must be issued three days before the trial; before a county court, six days before the trial; and before the "court of assize," eight days before the trial. The county courts must meet on different days at each of the seats. At the fall session the assembly ordered that no justice of the peace might serve as advocate or attorney.

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[20] *ibid.*, 38-45 *passim.*

In the fall of 1675 it was ordered that no freeholder could be arrested for debt unless it was proved that he was removing his possessions. It was also stipulated that persons under fine for violating a penal law were exempt from the distraint of their arms, ammunition, plows, horses, or cattle, "so necessary unto their livelihood." Finally, no freeholder could be sued in any county but his own; and any justice of the peace might summon an offender to answer in the county in which he was a resident or a freeholder. The assembly of 1677 issued a strong statement relative to the rights of every colonist as an English subject: "No man . . . shall be deprived of the Benefit of the Common Law, and a free Process therein, . . . and no stop of the Course of Justice and Equity to be made under what pretence soever."[21]

The assembly of 1675 provided for a grand jury. Its members were to be chosen by each town and were to take an oath to report all persons transgressing "the law to suppress disorders." If anyone refused to serve the term of one year, he was liable to a fine of 30s. When it was reported in October 1676 that several towns had neglected to swear grand jurymen, thus rendering them incapable of officiating, the legislature directed that the constable must immediately present them to the justice of the peace to be sworn in.[22]

The question of superior courts and a court of appeal during the Carteret period is somewhat hazy, and the matter was complicated by the illegal creation, following the rebellion of 1672, of special prerogative courts by the governor. The intention in November 1675 was to provide a superior court of assize and/or court of chancery to which cases involving more than £20 could be taken. This court was the supreme court of the province; appeals from its decision had to be made to the governor and council, and as a last resort to the King. The fees of the province court were double those of the county court. The court of assize would meet where the governor and council should decide.

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[21] Leaming and Spicer, 96-98, 116-117, 120, 128, 129; Richard S. Field, *The Provincial Courts of New Jersey* (New York, 1849), 10-11.

[22] Leaming and Spicer, 101, 120-121.

Actually, before 1675 the court of assize as a superior court consisting of the governor and his council had met as a court of oyer and terminer as early as February 1672, when seven Dutchmen were ordered arrested for riot and brought before the Bergen court. At the end of the month this court convened again at Elizabethtown to try the Meaker case. In June and October the court of oyer and terminer sat at Woodbridge with William Sandford as president, and again at Bergen the following June. In December 1674, just after the end of the Dutch reoccupation and immediately after Governor Carteret's return to the province, the governor and the council ordered "a general Court to be held at Elizabethtown; the Members of the Council to continue as Justices of the Peace." In February 1675 commissions were issued to John Berry as president and Pike, Edsall, Bishop, and Andress to sit at the March meeting of the court of oyer and terminer and the next year it sat again. In December 1678, with James Bollen as president and Pardon, Ward, and Johnson as assistants, this court convened to try an action between Sandford and a New York man, and in June 1679 Berry, Ward, and Bollen met to decide upon the ownership of a vessel. In November 1681 it met at Piscataway with Robert Vickers as president, and later in the month it sat at Woodbridge with James Bollen as president and Greenland, Bishop, Andress, and Edsall assisting. The last recorded meeting before the Twenty-Four Proprietors took over was at Middletown at the request of Samuel Moore, with Vickers in the chair, assisted by Bollen, Greenland, and Robert Throgmorton.

After 1675 these meetings are labeled "special courts of oyer and terminer," and, presumably, after the court act expired in 1680, they were prerogative courts, pure and simple, controlled by the governor and his council. Unfortunately, no record of the court of assize as such exists, but the Journal of the Court of Common Right, under date of February 28, 1684, contains an account of one of its trials, involving a case of the seizing of an abandoned ship and her cargo of logwood that had not been reported to the authorities.[23]

At the busy assembly of 1675, the first since the fall of 1668, it was provided that the clerk of each township keep a record of all births, marriages, and deaths, for the recording of which he would receive 3d. per name. Should any inhabitant fail to record such an event he would be fined 1s. for the first week's lapse and 2s. for the second. The assembly also instructed each township to appoint two men to lay out the common streets and highways.

The only law during Carteret's administration touching the thorny subject of quitrents was enacted in 1679, when it was provided that all persons paying quitrents should enjoy "all the Benefits, Priviledges, and Immunities . . . both in Law and Equity" as those whose patents bore the date 1670, when the rents first became due.

Manufacture and trade were not the subject of legislation until April 1676. On complaints that leather was being marketed that was not adequately tanned—to the detriment of the reputation of the province—each town was ordered to appoint an inspector, or sealer, whose duty it was to pass upon the quality of the product. The inspector would be paid 4d. per hide, and goods not up to the standard would be forfeited. To encourage leather making, tanners were granted permission to fell trees for bark on the commons lands. In October 1678 it was decreed that any person exporting green hides or dried hides would forfeit them and that a third of what they brought would go to the informer. The following year it was directed that no dressed skins bought from Indians might be transported out of the province by residents or nonresidents. Violators would forfeit such skins; a third of the value received for them would go to the informer. The 1676 assembly, to encourage Lewis Morris' iron works, exempted his lands and works from taxation for a period of seven years.[24]

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[23] *ibid.*, 96-97; *N.J.A.*, XXI, 31, 34, 35, 36, 37, 42, 43, 45, 46; Preston W. Edsall, *Journal of the Court of Common Right and Chancery of East New Jersey, 1683-1702* (Philadelphia, 1937), 4, 177, 178.

[24] Leaming and Spicer, 100, 102, 117-118, 129-130, 135-136.

The assembly of 1679 appropriated £150 for the encouragement of trade, and especially to protect owners of ships and cargoes, if detained or condemned in New York. No aid was forthcoming unless, in first calling at an East Jersey port, the vessel had been properly entered and cleared by His Majesty's customs at Elizabethtown. The assembly directed that traders arriving by boat in East Jersey would forfeit both their ship and cargoes if found guilty of trading with the Indians without a license. The sums received from the sale of the confiscated objects would be allocated equally to the crown, the province treasury, and the cost of the suit.[25]

Something has been said of the uncertain remuneration provided for Carteret as deputy governor. The same hesitation was shown by the assembly in its allowances to James Bollen as secretary of the province, who was appointed without consulting it. In 1675, however, the assembly voted that the several towns should pay him 5s. for each military and civil commission that he issued. Apparently this netted him little for in October 1677 the assembly minutes note that "an act for the Paying of Six pounds to the Secretary is wanting." In 1679 Bollen, who had now served well over a decade, was granted the sum of £3 from the county rates for transcribing the laws of the session and transmitting a copy to each town, and his clerk was granted 10s. for his assistance.

Under the Concessions the assemblymen, or deputies as they were more generally called, enjoyed certain rights and privileges. In 1676, because of absenteeism, the assembly decreed that a deputy would be fined 10s. for each day's absence, but not the 40s. levied in 1668. The deputies were permitted to requisition, if necessary, boats, horses, and men to aid them in their trips to and from the meetings, this expense to be borne by the deputy's constituency. Anyone refusing to assist a deputy to get to the assembly must pay his fine for nonattendance. At the second session, in October, the assembly, upon the request of the deputies from Navesink, directed the town of Middletown to ascertain the best way of traveling between Navesink and the other towns.[26]

As in New England, days of thanksgiving were occasionally proclaimed. In October 1676, in grateful acknowledgement of God's mercy and favor "in preserving and continuing our Peace in the midst of Wars around about us . . . ," the assembly set apart the second Wednesday in November as a day of public thanksgiving, "to give God the Glory and Praise thereof, and oblige us to live in his Praise and in his fear always." In 1679 the twenty-sixth of November was so designated, "in consideration of the great Deliverance of our Nation from that horrid Plot of the Papist to murder our King and destroy all the Protestants [the Gunpowder Plot]; and for the Mercies of God to us in our Province, delivering us from that infectious disease of the Small-Pox [rampant in New England], and other Diseases, and from the trouble of the Indians, and all other of his Mercies which we have received in the Year past."[27]

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[25] *ibid.*, 132-133.

[26] *ibid.*, 115, 118, 128a, 130.

[27] *ibid.*, 121-122, 136-137.

CHAPTER VI

Carteret and Andros

The British crown in 1674 had an excellent opportunity to begin anew in New Jersey. The Dutch conquest had abrogated the proprietary patent, and, had Charles II deemed it wise, the entire province might have become a royal colony. The proprietors, Berkeley and Carteret, had shown no great interest in New Jersey, although from time to time the latter had intervened when Governor Carteret referred problems to him. In 1669 both proprietors were in trouble at home. Berkeley "had been detected in the basest corruption" and had been deprived of his office. Carteret, too, long suspected by Parliament of irregularities as treasurer of the Navy, was finally expelled from the House of Commons.

Former Governor Nicolls of New York renewed his pressure upon the Duke to cancel the New Jersey grant. Samuel Maverick, one of the royal commissioners, wrote Governor Winthrop of Connecticut in February 1669, "Lord Barkley is under a cloud, and out of all his offices, and offers to surrender up his Patent for N. Jarsey. Sir G. Carteret, his partner, is in Ireland, but it is thought he will likewise surrender, and then N. Yorke will be inlarged." So certain did this eventuality seem to Maverick that in June he wrote again, "New Jarsey is returned to his Royall Highnes, by exchange for Delawar, as Sir George Carterett writs to his cosen, the present Governor: some tract of land on this side of the river [Delaware] & on the other side, to reach to Maryland bounds." The rumors seemed to have reached New Jersey since at a Newark town meeting in July 1669 Crane and Treat were chosen to advise with Governor Lovelace of New York "concerning our Standing, whether we are designed to be part of the Duke's Colony or Not." But the expected transfer did not materialize. Berkeley in 1670 became lord lieutenant of Ireland, where Carteret had been installed as deputy treasurer. Charles and the Duke continued to support their old compatriots.[1]

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[1] Hatfield, *History of Elizabeth*, 129-130; Newark Recs., 21.

Charles II, on June 29, 1674, regranted the Duke his patent to lands in America. Two weeks before, Charles had issued a proclamation to the inhabitants of New Jersey, probably at the urging of Sir George, commanding them to yield obedience to the laws and government of the proprietors, whose government had been subject to "great troubles and disorders" because of the acts of "some ill-affected person." On July 1, however, James appointed Major Edmund Andros governor of all the restored territory. Oddly, New Jersey was not excluded from his jurisdiction, an oversight that was to cause more trouble in the beleaguered province.[2]

On March 6, 1674, during the period between the signing of the peace of Westminster and June 29, when the King renewed the Duke's patent, Lord John Berkeley sold his proprietary rights for £1,000 to Major John Fenwick and Edward Byllynge, two Quakers. The Duke, instead of releasing New Jersey to Berkeley and Carteret, instructed his lawyers to prepare a patent for Sir George that would include only the land lying north of a line from Barnegat Creek on the Atlantic to a stream in the same latitude flowing into the Delaware River. The southern part of the province, West New Jersey, was ignored by the Duke at this time. The northern boundary of East New Jersey, as it was called, ran from latitude 41° 40′ N. on "the northernmost branch of the Delaware" eastward to the Hudson River at 41° N. This instrument of 1674 was identical with that issued in 1664 to Berkeley and Carteret except for the delineation of boundaries and the stipulation that the annual rent of twenty nobles would be paid by the sole owner, Sir George.[3]

On July 31, 1674, Sir George issued instructions to Governor Philip Carteret, to which were attached a statement regarding the Concessions and Carteret's commission as governor. The statement was a reiteration and an enlargement of the proprietors' "Declaration of the True Intent and Meaning of the Concessions," dated December 6, 1672. In it Sir George dwelt upon the disorders incited by those who claimed a right of propriety both of land and government. He announced that all lands patented to settlers by Governor Carteret before July 28, 1672, and confirmed in the proprietors' names, were valid. Claims under patents issued by Nicolls were disowned on the ground that the proprietors had been legally vested with New Jersey before Nicolls issued such patents. Not only the governor but the King himself in November 1672 had proclaimed that the Nicolls grantees must submit to the proprietors' authority, patent their lands from them, and pay the quitrents in accordance with the Concessions. If they had done so, they might retain such lands. But those who did not take up proprietary patents within a year would forfeit their lands and Carteret and his council would dispose of such lands to others. Those thinking themselves wronged might appeal to the King and his council.

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[2] *N.J.A.*, I, 153-154, 156-159, 164.

[3] *ibid.*, 160-163, 163-167.

Sir George also stipulated that "the chief actors" among those who had attempted to make a change in the government be proceeded against in accordance with the declaration of the governor and council of May 28, 1672, unless they immediately sought remission of their offenses. Moreover, all persons who had sustained loss or damage since March 26, 1672, were entitled to claim reparation before special courts constituted for the purpose by commission of the governor and council dated April 3, 1672. All grants of land, conveyances, and surveys not obtained in accordance with the Concessions and not recorded in the secretary's office were declared null and void. All arrears of quitrents not paid since 1670 were to be paid to the receiver general at the rate of 1/2d. per acre, along with the current rent due each March 25. Those neglecting to pay their quitrents and their arrears would have their goods and chattels distrained. The several constables, as formerly, would transmit the quitrents to the receiver general. Rents could now be paid in kind "at the merchants' price." If then the rents could not be collected, the marshal was empowered to collect them at the expense of the defaulters. Cases already disposed of by the governor's special commission were allowed and ordered executed.

Sir George decreed, further, that the inhabitants of Navesink, because of their loyalty, should have their townships surveyed and incorporated as they had requested and that they enjoy the same privileges as other towns. The "pretended patentees" (original associates) and those who had purchased their lands from the Indians would receive 500 acres of land apiece, to be located by the governor and subject to the usual quitrent. The governor and council were also empowered to set the fees of the secretary, the surveyor general, and the marshal. All lands in the townships or private plantations not already patented and surveyed must be patented upon Carteret's arrival. Lands bought from the Indians would be purchased in the name of the proprietor by the governor and council, and those obtaining the patents for such lands must make reimbursement at the same price. A prison and a keeper's house were to be built and paid for from the quitrent receipts. He promised to supply guns and ammunition for defense, but all other charges must be defrayed by the province.

All writs must be issued in His Majesty's name except those summoning the deputies, which would be in the proprietor's name. In the case of an appeal to England, the appellant must bear all costs; also, on making the appeal, he should pay a fee of £12 to the judges, besides the costs and damages levied against him in the province, and give security of £100 for prosecuting the appeal within eight months. Since the general assembly had made no regular provision for the support and maintenance of the governor according to the Concessions, it was ordered to vote a proper stipend and to pay the governor adequate arrears. Sir George announced a gift of 2,000 acres to Philip Carteret and directed the council to issue patents for these lands in places of the governor's choosing.[4]

The instructions concerning the intent of the Concessions, first enunciated in 1672, made significant changes in the constitution of the province. The powers of the governor and council were enhanced at the expense of the lower house. All men swearing allegiance to the King and the proprietor became freemen, subject only to rules laid down by the governor and his council. The approval of the whole assembly was not required. Freemen could not vote or hold office unless they held their patents from the proprietor. In addition, the power to create new corporations (Article 6) resided in the governor and council alone. Ministers nominated by the towns would be approved of by the governor and council, instead of, as formerly, by the whole assembly (Article 8). Likewise the governor and council were vested with the power to summon and adjourn the general assembly and to appoint the place and time of the meeting. They could constitute and appoint courts in the towns (the hated prerogative courts), but the assembly retained the power to erect courts of session and assize. Appeals from the assizes would proceed to the governor and council, then to the proprietor, and finally to the King. The governor and council, not the assembly, were empowered to dispose of allotments of lands to masters and servants.

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[4] *ibid.*, 163-173.

The powers of the governor and council were further enhanced by placing the nomination and appointment of all civil and military officers in their hands. In case of invasion or rebellion, they were free to draft all inhabitants into service, whereas before, unless the assembly consented, only freemen could be levied upon. The laying out of town lots, the provisions for streets, and the quantity of land in each lot were left to the "first undertakers" (associates) upon agreement with the governor and his council. Warrants for land not exceeding the proportions in the Concessions were now legal if signed only by the governor and the secretary, in case members of the council were not available. Sir George ruled that the governor and the council were to sit apart from the deputies in the general assembly. The Concessions of 1665 in all other respects remained in force unless altered by former orders.[5]

Philip Carteret's commission, dated July 31 also, authorized him, with the agreement of three or more of the council, to sell or dispose of land, subject to the conditions set forth in the Concessions, and to perform all acts relating to the governance of the province that the proprietor himself might perform. Lands sold or otherwise disposed of were subject to the proprietary quitrent of 1/2d. No law or order of the governor and council would be in force for more than a year and a half without the assent of the proprietor, which must be requested within a year of its promulgation. If the proprietor assented, the law or order would continue in force until it expired by its own limitation or was repealed. The executive power would be exercised by the governor, with the advice and consent of the council. The Indians were to be treated with all justice and humanity, "to the benefit of the planters and for the propagation of the Gospel." Carteret's commission closed with a former stipulation that it was lawful for the deputies to address the proprietor on any matter relating to the governor or council.[6]

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[5] *ibid.*, 173-175.

[6] Leaming and Spicer, 58-60.

Governor Carteret crossed the Atlantic on the same ship as Governor Andros of New York, arriving at the end of October, 1674. Proceeding to Bergen, Carteret reassembled his council which consisted of John Berry, William Sandford, John Pike, Lawrence Andress, John Bishop, Sr., James Bollen, secretary, and Robert Vauquellin, surveyor general. Early in November he read his instructions and commission to the council and to the delegates of the towns. In an address to Sir George, the governor and council explained that the former disorders in the province would have been overcome, "had not the Dutch unhappily come in and nipt us in the bud." They also commented upon the alacrity of the turbulent element to submit to the enemy.[7]

The governor and his council, now established in Elizabethtown where Carteret resumed his residence, issued in December a lengthy proclamation. The arrival of the Dutch had offered "an opportunity to those seditious spiritts to cover their former guilt with the mantle of treason, and leading in an innovation of authority hopeing to shrowd themselves from the hand of justice by inviteing an enemy to protect them." The proprietor had been put to great expense in obtaining new patents, and for the better regulation of the affairs of the province he had issued certain orders. No person would be commissioned to civil or military office unless he had patented his lands according to the Concessions, and no town corporation would be eligible for the privileges of such a body unless its inhabitants had similarly conformed. However, in order to preserve the peace of the colony a general assembly would be convened at Elizabethtown on March 8, 1675 to determine outstanding matters.

The council, "being the present magistracy of the province," was instructed to issue warrants for convening the assembly and, meanwhile, take the necessary steps for preserving the peace and for suppressing any disturbance. Sandford was delegated to swear in Thomas Johnson as constable of Newark and John Woodruff as constable of Elizabethtown; Bollen or Pike would swear in John Bloomfield as constable of Woodbridge, Francis Drake of Piscataway, Richard Hows of Middletown, and Peter Parker of Shrewsbury; and Berry would swear in Hans Diederick as constable of Bergen. Samuel Moore of Woodbridge, the provost marshal, was ordered to demand the monies amerced at the last court held at Bergen, June 26, 1673, in order to reimburse such persons who had been to some expense to preserve the proprietor's interest. Those convicted at the Elizabethtown court, March 8, 1672, must also pay their fines. Offenders who refused to pay would be put in jail without bail until the sum was satisfied. All constables were ordered to assist the marshal and command the aid of the inhabitants in the execution of this order.

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[7] Hatfield, *History of Elizabeth*, 179.

Vauquellin, the surveyor general, was directed to survey the townlands of Newark, then those of Elizabethtown, Piscataway and Navesink at intervals from March 1 to August 31. The towns were notified to render him such assistance as he deemed necessary. If they failed to cooperate, the governor and council would regard themselves wholly acquitted from censure in dispossessing those who had been neglectful.[8]

Elizabethtown made reluctant overtures when it learned that Vauquellin would begin work on April 1 and that Moore would collect the fines that had been imposed on those who had damaged Michel's house and had broken open Pardon's house. On March 11, the town meeting offered to the governor and council the sum of £20 "current pay of this country" as quitrent in consideration of a township of eight miles square, divided, according to the township plan, into first, second and third lots, providing it was confirmed to them and their heirs by charter with such privileges as other towns enjoyed. Since most of the soil, they claimed, was bad and half was wasteland, the meeting deemed this amount ample. Bollen refused this offer: "There cannot be granted any variation or alternation from the proclamation dated December 11." Under the circumstances the inhabitants of Elizabethtown yielded, and one after another applied for individual surveys. Although only Vauquellin and one other applied within the allotted time, May 15, by September 1676, 73 others had obtained warrants. Three years before there were 80 male inhabitants in Elizabethtown. The surveys show that the average holding was for 120 acres. Carteret's lands, the largest, came to 2,700 acres, and John Baker's, to 1,200. Other substantial holders were John Woodruff with 450 acres; Robert Bond, with 360; Luke Watson, with 400; Henry Lyon, with

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[8] *N.J.A.*, I, 176-177, 177-179.

360; Benjamin Price, Sr., with 320; and Jonas Wood, with 300. The smallest holdings were tracts of 60 and 90 acres.

Newark, too, was a reluctant performer. At a town meeting held on December 11, 1674, the day the governor's proclamation was published, John Ward, Samuel Swain, Thomas Johnson, Samuel Kitchell, and three others were deputized to treat with Carteret regarding a petition adopted by the meeting. Little was accomplished. On February 20, 1675, the meeting chose Thomas Johnson and Thomas Richards to inform the governor "that they do not see it their way for the present to pattent upon the terms proposed." On March 8, "being it is thought fit we should send in writing our minds about pattenting to the governor—Mr. Ward, Deacon Lawrence and Thomas Johnson are chosen to go down to Elizabeth Town and present it, and also to debate with him about the matter." Pierson and Kitchell were delegated to draw up the statement to the governor. Nothing further is recorded in the Newark town book on the matter.[9]

With Philip Carteret firmly in the saddle, matters quieted down temporarily. As we have seen, much useful work was accomplished in the assemblies from 1675 to 1679. At the close of the legislative session of 1675 an act of oblivion was adopted. All suits to recover damages, costs, and charges for any act committed in trying to alter the form of government between 1670 and 1673 were ordered dropped. No contract made with rebellious citizens for the purpose of assisting them was actionable. The governor and his council expressed themselves pleased that the inhabitants should be freely pardoned for all offenses, capital and otherwise, committed during the period of the troubles. Speeches or other utterances that had disturbed the public amity were buried in oblivion and were not actionable. Those violating this injunction were liable to imprisonment, fine, banishment, stocking, and whipping, as a court of assize should determine. But what had already been recovered by law from any person, or imposed by way of fine at any court, should stand. Thus no abatement was made of the fines and penalties in the Meaker and Pardon cases. Since Meaker had been adjudged to lose his estate because of what he had done in the cases of Michel and Pardon, he petitioned the general assembly for indemnity. This plea resulted in voluntary contributions in his behalf on the part of Elizabethtown, Newark, and several other towns. At the Newark town meeting of November 21, 1676, Meaker's petition was read, and on condition that he would never again appeal to anyone in Newark about his loss, he was given a contribution.

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[9] Hatfield, *History of Elizabeth*, 181-184; Newark Recs., 56, 57, 59.

During this period of comparative quiet, Carteret built a new house on land leased from Henry Lyon. Secretary Bollen then sold his Elizabethtown property to Lyon and moved to Woodbridge. Vauquellin also moved to Woodbridge. Pardon removed to New York, where he became a merchant. Because of his holding of 200 acres he was still regarded as an Elizabethtown associate. He continued as a member of the council until April 1679, when he requested to be relieved from all public duties to live the life of a "private gentleman."[10]

Sir Edmund Andros' commission from James as James' governor was dated July 1, 1674, before Sir George was reinvested with his property. Andros was directed to govern all the Duke's territories in America, including the lands lying between the Connecticut and Delaware rivers! The lease from James to Sir George was dated July 28, but it was some time before Andros learned of it. Sir John Werden, James' secretary, wrote Andros as late as February 1675 that nothing had yet been done "towards ye adjusting Sir George Carteret's pretensions in New Jersey, where I presume you will take care to keep all things in ye same posture (as to ye Dukes prerogatives & profitts) as they were in your predecessors time untill you shall hear of some alterac'ons agreed to here." Andros did not clash with Philip Carteret for several years, then he proceeded to deal with him in a roughshod way.[11]

Meanwhile the bounds of East Jersey were changed by an indenture dated July 1, 1676, that formally divided the province into East and West New Jersey. The Fenwick-Byllynge proprietorship of the southern half of New Jersey changed radically in character when Byllynge, who became bankrupt, agreed to place his confused affairs in the hands of a Quaker trusteeship consisting of William Penn, Gawen Lawrie, and Nicholas Lucas. These men, with Byllynge's consent, undertook to create a Quaker colony on the east bank of the Delaware below the falls at Trenton. The trustees capitalized their venture by issuing shares or proprieties to be marketed for £350 each. Of the one hundred proprieties, Fenwick was assigned ten, in commutation of his interest. But because of his refusal to cooperate with the trustees, there developed a bitter quarrel lasting until his interest was purchased by William Penn in 1683. The other ninety shares were offered to Quaker groups and individuals, and the response was so great that by August 1677 a settlement was begun at Burlington.

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[10] Leaming and Spicer, 110-111; Hatfield, *History of Elizabeth*, 184, 186; Newark Recs., 65.

[11] *N.J.A.*, I, 179.

The Byllynge trustees, however, quickly decided that it would be advantageous if they could secure control of the eastern bank of the Delaware from the mouth to the source. They were able to persuade Sir George to redraw the east-west boundary line so that it would run diagonally from Little Egg Harbor on the coast to the source of the Delaware. The lands east of the line between the two partition points comprised the province of East New Jersey. Sir George had yielded much land to the trustees. It has been calculated that West Jersey was given 4,600 square miles in comparison with 3,000 for East Jersey.[12] Perhaps the division was accomplished with so little difficulty because Penn's staunch friend, the Duke of York, was willing to grant him yet another favor. Sir George, anxious to solidify his right of government, found it to his advantage to heed any suggestion the Duke might make. The trustees as yet had received no recognition from the Duke of a proprietorship in either land or government.

Andros and Carteret did not immediately fall out over the matter of jurisdiction because Andros was fully occupied with other matters. Settlers destined for West Jersey, however, found it politic to stop at New York and accept the conditions that Andros imposed upon them. Finally, Andros decided to return to England to obtain a ruling regarding the right of government to the Jerseys and other matters relating to the Duke's propriety. Before taking leave, he visited pleasantly with Governor Carteret at Elizabethtown.

When Andros, now knighted, returned in August 1678, he came with a mandate, so he supposed, to impose the Duke's authority over both the Jerseys. He quickly imprisoned the rebellious

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[12] Tanner, *Province of New Jersey*, 11.

Fenwick for a second time, then initiated a controversy with Philip Carteret. The East Jersey governor early in 1679 declared that all vessels might trade in East Jersey without first paying customs dues in New York as Andros insisted. In other words, Carteret claimed freedom of ports as a proprietary prerogative. But a ketch arriving in New York Bay with a cargo of rum sent directly from Barbados to Elizabethtown was compelled to put into New York. This and similar acts were greatly resented by the governor and the inhabitants of East Jersey.

On March 8, Andros warned Carteret to stop exercising jurisdiction over His Majesty's subjects in New Jersey unless "recorded, as it ought to be, in this place." He then told him that beacons and a fort were needed at Sandy Hook for the protection of shipping. Andros proposed to make these improvements and informed Carteret that he would reimburse Richard Hartshorne and other landowners for the property required. Sir Edmund then issued a proclamation commanding Carteret and all officers in East Jersey, civil and military, to cease their distinct governance within the bounds of the Duke's patent. He ordered the inhabitants to desist from upholding Carteret's "illegal" rule. The governor, council, and inhabitants must submit to the King's lawful authority, "to their utmost peril." To preserve the peace, he confirmed the present constables in their offices. He was prepared, he warned, to take all necessary steps to enforce His Highnesses authority, "without entrenching upon any man's just right, property, freehold or possession." Thus the legality of Sir George's proprietorship and that of the Byllynge trustees of West Jersey was challenged by the Duke's governor.

Carteret replied that he had made no pretense beyond the bounds of his commission, nor had the inhabitants yielded obedience to him but "by their Sovereigns positive orders." The matter of land and sea marks could be cared for without any other necessity than the crown's wishes. But, Carteret continued, if Andros attempted to erect a fort at Sandy Hook, he must resist it until he knew Sir George's pleasure. He reiterated that the people as well as himself and the council were obligated by His Majesty's commands to yield obedience to Sir George and were resolved not to forsake their allegiance unless ordered to by the King. Should Andros use force, they would defend themselves as best they could. Carteret entreated Andros to avoid acts of hostility until His Majesty decided the controversy, "which we shall endeavor to have effected as soon as possible may be." A rumor that forces from New York would appear made it imperative for him to take measures of defense. Carteret issued a commission to John Berry to act as his successor, should he be disabled in defending the province.

Carteret's reply was then considered by Andros and his council. Carteret had taken the precaution of sending with it a number of legal instruments that would furnish proof of the validity of Sir George's government. These included the Duke's letter to Nicolls of November 1664 announcing the grant to Berkeley and Carteret, his letter of November 1672 to Governor Lovelace disowning the Nicolls grant to Baker, et al., the King's letter of June 1674 to Philip Carteret, and the King's grant to the Duke dated June 29, 1674. Of the last two, Andros' council minutes noted tersely, "Nothing materiall in either." Oddly, there is no mention of the Duke's lease and release to Sir George, dated July 28 and July 29, which was certainly material. Carteret's representatives, William Sanford and Thomas Johnson, stated that they did not know the contents of Carteret's letter and had no authority to speak save as private persons.

The New York council, "informed that the K's L're patents [Andros' commission] have not been made public or made known" in East Jersey, ordered each of the towns to send representatives to a meeting at Woodbridge on April 7. On March 29 Carteret, thoroughly alarmed, wrote Andros that he had countermanded "any former orders" convening a general assembly since it would be an unwarranted expense upon the province. He wished to inform him at once lest he or his representatives were planning to come to East Jersey in April. Asserting that he was fully aware of the "indirect means you use for obtaining the government, and in a sinister way to subvert the minds of his majesty's subjects here," he commanded Andros to send no more emissaries. Such men would be seized and tried as "spies and disturbers of the public peace." "It was by His Majesty's command," Carteret wrote, "that this government was established, and without the same command [we] shall never be resigned but with our Lives and Fortunes, the People resolving to live and dye with the Name of true Subjects and not Traytors." He bluntly accused Andros of attempting to subvert the minds of the inhabitants from their allegiance to the proprietor. Further, he protested Andros' "unlawful proceedings," and notified him, so that later he could not feign ignorance of it, that he was strongly urging that an appeal be made to His Majesty. He warned Andros "in His Majesty's name to forbear to molest or disquiet us in our peaceable possession or in the government in any way, at his peril."[13]

On April 5 the New York council resolved that Andros should go to Elizabethtown to meet with the East Jersey deputies. The mission would be friendly, and those accompanying the governor would carry only their swords. Andros and ten others anchored near the Staten Island shore, and two of the party sailed into the Elizabeth River to apprise Carteret of their coming. Although they were met by several armed bands, Captain Sandford, when he learned that their intentions were peaceful, permitted them to spend the night. Early the next day the sloop itself crossed over. Andros was informed that Carteret would welcome him and his party, if they came as friends. They were escorted within the stockade that Carteret and his armed companies had erected for defense. There Andros launched a verbal attack: that he had come to undeceive the inhabitants and to furnish proofs of his authority over East Jersey. His secretary read various documents, including the King's command to receive the territory from the Dutch and, particularly, Ogden's surrender of New Jersey. Because the late arrivals were unable to get into the crowded stockade, Andros transferred his reading to an adjacent field so that all might hear. Carteret then persuaded Andros to step into his house in order that he might exhibit the instruments of his authority to govern. Berry read them aloud, while Carteret and Sandford explained their intent and meaning. But Andros insisted that His Majesty's letters patent were "of greater force than the K's private L'res & the Conveyance by lease & release. . . ." Carteret and his advisors insisted that since Sir George was the Duke's assignee, he had as ample power of government as the Duke himself. They asserted that they would defend their government until the King's pleasure was known and that Charles II and his council alone could judge between the

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[13] *N.J.A.*, I, 292-299.

Duke and Sir George. Berry talked of appealing to England, but Andros retorted that it was improper to appeal before a judgment was given! No accord was reached and, following supper, Sir Edmund returned to his pinnace accompanied by Carteret, Berry and a guard. Carteret's companies fired a farewell salute that was reciprocated by the pinnace.

On May 1 Andros issued a warrant for the arrest of Philip Carteret, "for having presumed to assume and exercise authority and jurisdiction over the King's subjects." Carteret was tried before a special court of assize in New York. The charge was that without any lawful right he, Berry, Sandford and others presumed to exercise jurisdiction and governance within the bounds of the Duke's patent although he had been warned against doing so. Carteret argued that he had refused to surrender the government to Andros because he had sworn to be obedient to that established by Sir George, and that he could not relinquish that responsibility without a command from the King. He asserted that he had been taken from his house and kept a prisoner ever since. He demanded his liberty on parole and vigorously protested the jurisdiction of a court where his imprisoner and accuser was the judge.

To Andros' great chagrin, the jury brought in a verdict of not guilty. He angrily demanded their reasons only to be told by Carteret that it was contrary to law for a jury to give reasons after a verdict had been rendered. Andros sent the jurors out again with new charges, but they held stubbornly to their decision. The court then gave judgment that if Carteret returned to New Jersey, he should give security not to assume any authority or jurisdiction there, civil or military.

A few days later, Andros and his council sailed for New Jersey to attend the meeting of the deputies at Elizabethtown. The constables of the various towns had made their returns of the following to be members of the lower house: Thomas Johnson and John Ward for Newark; Henry Lyon and Benjamin Price for Elizabethtown; John Bowne and Jonathan Holme for Middletown; Jedediah Allen and John Hance for Shrewsbury; John Gilman and Edward Slater for Piscataway; Lewis Baker and John Bishop for Woodbridge; and William Douglas and Hans Diederick for Bergen. Douglas refused to take the oath on the ground that he was a Roman Catholic, but on being informed that it was not the Oath of Supremacy he agreed to take it. A week later he was purged by the deputies themselves because it was discovered that the law forbade the admission of a Roman Catholic.

All were sworn in on June 2, 1680. Sir Edmund read them the King's letters patent and his commission from the Duke; then he told them he had endeavored not to be wanting in his duty for their welfare, although through some mistakes and neglect they had not been as unanimous and united as they ought. As matters were now in their right channel, he would remit their trespasses upon authority. He urged them to adopt an act confirming all past judicial proceedings and appointing the times and places for the keeping of their courts and sessions. For their guidance he offered them a copy of the Duke's laws of 1665, now in force in all the Duke's territories. Local prudential regulations, as adopted, could be submitted to the court of assize, and would be approved if not repugnant to the laws of England. Andros announced himself ready to hear the deputies' requests and to do his part for the welfare of the inhabitants, without infringing upon any man's just rights, properties, possession, or liberty of conscience. He recommended that the assembly choose a speaker and elect Isaac Whitehead clerk, a suggestion the deputies resented because they thought it was one of their prerogatives. Whitehead was named on Sir Edmund's insistence, and John Bowne was once more elected speaker.

As their first business the deputies addresssed to Sir Edmund a demand that the privileges granted the inhabitants be confirmed without infringement, particularly those "as of right belonging to every free borne Englishman." They also requested that a general assembly be called annually, in October, for the making of such laws as were necessary. Andros and his council concluded that their petition was essentially irrelevant. The King's letters patent were their "grand charter & best security." An assembly would be called whenever deemed necessary Andros promised, but it should not be overlooked that all acts adopted by provincial assemblies were temporary. The Andros council resolved that "the paper is thought to bee improper and that the Assembly be sent for & minded of what Go: & Councill spake to them at their first meeting as materiall expecting a suitable answer." The deputies called upon Speaker

Bowne to debate the matter, and for two hours he pleaded for the rights and privileges of the people. Andros was adamant, though he left them with the hope of an occasional assembly. After the governor departed, the deputies sent two men requesting confirmation of the acts of the November 1679 assembly. The governor's secretary, Mathias Nicolls, asked for a copy of them, and Whitehead agreed to acquaint Speaker Bowne with this request. Whitehead was also asked to learn how long the assembly expected to sit. He was told that everything would be in readiness for the governor by June 8.

Actually on June 4, the assembly had adopted a measure that all legislation adopted in November be confirmed for one year. They also asked confirmation of the laws in the statute book that they had sent to Andros and his council. Again they requested stubbornly "that we may have all those Privileges confirmed to us as that are granted to every Freeholder in this Province in our Concessions." On learning that "the diliatory and tedious proceedings" would continue, Andros and his council left for New York. On returning to Elizabethtown on June 9 he found a request from the lower house requesting a meeting. Andros and his council resolved that their position was plain, "& no answer nor difference or occasion knoune, requires no conference." Nevertheless they agreed to hear any statement the deputies wished to make. Two of Andros' council met with Speaker Bowne, and Johnson and Ward of the lower house. When the deputies began to discuss matters of interest to them the councilors insisted that they keep to the business Andros had charged them to deal with. The meeting soon broke up. The lower house then sent another paper summarizing its view which the council rejected as not only having nothing to offer but which reflected adversely upon His Majesty's letters patent. The council advised that the assembly be dissolved. The June meetings are not included by Leaming and Spicer among the assemblies of the proprietary period.[14]

The highhanded conduct of Andros was abetted by his knowledge of the death of Sir George at the age of eighty on January 14, 1680. In August 1676 Sir John Werden had written Andros in behalf of the Duke to deal gently with the man "for whome the Duke hath much esteem and regard." Nevertheless, continued Werden, the Duke was not inclined to yield any of his prerogatives in New Jersey, "though at present in respect to Sir Geo: we soften things that we may not disturbe his choller (for in truth the passion of his inferior office infects him as puts him on demands w'ch he hath noe colour or right to). I verily believe should his foote chance to slip, those who succeed him must be content w'th lesse civility than we shew him in this point, since then we should exercise that just authority his R'll Highness hath without such reserves. . . . You will reserve what I say in this paragraph to your selfe." Werden fervently believed that the Duke had made a serious mistake in giving away New Jersey.

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[14] *ibid.*, 299-301, 303-305, 308-309, 311-312, 314-315.

Little help could be expected for the displaced Philip Carteret from young Sir George, grandson and heir of the proprietor; nor, indeed, from the proprietor's widow, Elizabeth. This whole circumstance probably had inspired Andros to assert the Duke's prerogatives with vigor. Certainly Philip Carteret was at a loss how to proceed. He wrote young Sir George several letters regarding Sir Edmund's first visit to New Jersey, his own humiliating arrest wherein he was "so disabled by the Bruises and Hurts that I fear I shall hardly be a perfect man again," and of his trial at the assizes in New York. He made arrangements to send James Bollen, then in Connecticut, to England to plead the cause of the proprietary with the Duke, and to seek the aid of Sir Edward Carteret and others. He urged them, above all, to obtain a prompt confirmation of the proprietary powers. He warned Bollen that William Dyre, the collector of customs for New York, who was also bound for England, might "romance against us."

Even in such perilous times, Philip Carteret had a few supporters in the province. One Jonas Wood, ordinary keeper, swore that William Taylor, "a transient person having no certaine place of abode, commonly called 'Doc' or 'Surveyor,' uttered invective speeches against Sir Edmund, saying he was a rogue and a traitor and had treacherously imprisoned Philip Carteret!" When Ward, a justice, told him to hold his tongue, Taylor persisted, adding that Andros' council was a company of rogues and traitors and that he would not be governed by such men. Taylor and one John Curtis, a laborer, late of Hempstead, were arrested and taken to New York for speaking words tending to the disturbance of His Majesty's peace. Curtis, granted bail for a short time, disappeared and in spite of a search was not heard from until he appeared as a member of the assembly of October 1681. Taylor was brought before the governor and council of New York, and after craving pardon he was dismissed upon giving security for good behavior.[15]

At least one of the towns resented Andros' dictatorial commands. At the Woodbridge town meeting of July 1680, the freeholders were loath to carry out Andros' orders to nominate the local magistrates for his approval. They argued that their patent of June 1669 from Governor Carteret authorized them, among other privileges, to erect their own courts and to choose their own magistrates. They, "therefore, at present see no reason to make choice of any men for the end in the s'd order expressed." As for the other towns, Andros approved the appointment of Henry Greenland, John Gilman, and Edward Slater to be overseers or magistrates of Piscataway; Isaac Whitehead, Henry Lyon, and George Howe, of Elizabethtown; and John Ward, Thomas Johnson, and Samuel Swain, of Newark. These men were commissioned for one year and would try causes not exceeding £5 in value. A few days later, Cornelius Vanderburgh and Gerrit Gerritsen were appointed for Bergen, but two others were rejected. Bergen was told to call a town meeting to nominate others and also nominate a person to succeed Hans Diederick as constable. Johnson was named justice or president of the Newark court and Greenland of the Piscataway court.

In August 1680 matters at Woodbridge came to a head. Samuel Moore, former province marshal, had signed a paper in the name of the town positively refusing to obey Andros' order to nominate magistrates, and Samuel Dennis had contemptuously refused the governor's appointment as clerk of the sessions court. The constable was instructed to apprehend both men and deliver them to the sheriff of New York. Although Moore slipped away when he learned that a warrant for his arrest was being prepared, he was caught and tried before Andros and the council. Because of "his mean condicion, many children, &c," he was released, but not before acknowledging his error and promising to behave himself. Moore and Dennis later played prominent roles in East Jersey affairs.

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[15] *ibid.*, 230-231, 314-318, 320-321, 357.

In August, also, the case of William Meaker came to life again. In 1676 Meaker had appealed in vain to the assembly for indemnity; the legislature's act of oblivion did not affect the fines and penalties imposed by previous court decisions. Meaker then brought suit in the Elizabethtown court of sessions against William Pardon for trespass, charging that he had kept him out of his house and converted to his own use Meaker's possessions to the extent of £300 damage. A friendly jury brought in a decision repossessing Meaker of his estate, but the court fixed the damages at only £20. Pardon three times refused to settle with Meaker or to pay court costs and petitioned Andros for a review, claiming that he had not been given sufficient notice of the suit and consequently could not assemble the witnesses and needful evidence. He wrote Nicolls, the governor's secretary, that he had learned that Meaker was in New York for the purpose of persuading the governor to issue an order of execution on the ground that he was selling Meaker's estate with the intention to defraud. If an order of execution was granted, he contended, it would be illegal, since he was entitled to fourteen days after judgment in which to comply. He wished, therefore, to be heard by the governor. On September 23, the Elizabethtown court clerk wrote Andros reiterating that Pardon had neither repossessed Meaker, nor had he paid the court charges. The court, too, appealed to Andros, but nothing further is heard of the matter.[16]

William Penn and the other Byllynge trustees, once Burlington was settled, were under great pressure by the West Jersey colonists to obtain from the Duke a clear right of recognition of the right of government. From the time of his arrival Andros had insisted that no such right existed and when defied by John Fenwick, the proprietor of Salem, had dealt with him harshly. Since the Burlington settlers had tacitly accepted the orders of Andros, they were not troubled by him. Yet they staunchly held that the trustees, who sold them their lands, had promised them a right of government along with the right to the soil. The trustees, who had obtained an agreement of partition with Sir George, now set out to gain the acquiescence of the Duke to the right of government. George Fox, the Quaker head, urged William Penn and Robert Barclay to use their influence with the Duke. Sir George, by letters patent, had already secured a recognition of the separate proprietary of East New Jersey. Penn's plea came at a time when the Duke, beset with the Succession Question, could hardly afford to make additional enemies in England; in fact, if he could win the support of the Quakers and other Dissenters, he might succeed in strengthening his cause. Though the men around him like Werden disliked everything about the New Jersey proprietaries, they realized that some decision must be reached. Werden sought to have the King's secretary of state answer categorically the query whether the New Jersey grants had created separate governments or whether they were subject to the Duke's government at New York.

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[16] *ibid.*, 318-322, 354-357.

Meanwhile the Duke's political situation was rapidly worsening. The upshot of the matter was that instead of referring the question to his own attorneys, Sir John Churchill and Sir George Jeffreys, "both being absent," the Duke turned it over to Sir William Jones, an influential attorney whom he knew to be unfriendly to him. Using haste as a pretext, the Duke stated that there was a large group of colonists aboard ship waiting to sail to West Jersey. Specifically, he asked Sir William to render an opinion on whether the proprietors of West New Jersey were exempt from paying 5 per cent customs on their goods or whether the Duke's government at New York should continue to impose duties upon all goods coming to the Jerseys. As James shrewdly anticipated, Sir William held that the Duke could not, in the light of the terms of the grant to Berkeley and Carteret, legally demand customs or any other duty from the inhabitants. Less than two weeks after the opinion was rendered, on August 6, 1680, the Duke commanded Sir John to prepare a deed of confirmation for West Jersey extinguishing the demand for customs.

On November 6, 1680, Werden wrote Andros that James had taken up his exile in Scotland again and that before leaving he had granted to the proprietors of both the Jerseys all rights that had heretofore been doubtful, whether as to government or duties. The deeds, when sent him, would satisfy him fully in this matter, but he wished him to have prior knowledge of the transaction to eliminate any suspicion of its validity. The indenture for East New Jersey was made in the name of Sir George Carteret, grandson and heir of the former proprietor, dated September 10, though not signed until October 16. The Duke's legal advisors notified the Duke that this instrument contained a confirmation and release to young Sir George "in the same nature as is already Graunted, confirmed and released to Mr. Billing and others and their heires of the other Moiety."[17]

Sir Edmund was recalled at the close of 1680 and left New York in January. Philip Carteret, who had been living in Elizabethtown as a private citizen, again came to the fore. On March 2, 1681, he issued a proclamation contravening the authority of Andros. In it he stated that he had received from Lady Carteret an absolute command not to take notice of any orders from Sir Edmund or his government. The Duke, upon becoming acquainted with Andros' illegal acts "in usurping the government of New Jersey," had denied sanctioning such orders but on the contrary had directed that the proprietor should have all right done him "in the enjoyment of the province and its government." His Highness would not derogate in the least from what he had granted Sir George and declared that Sir Edmund had never had any authority from him for acting as he had. All those who had suffered damage from Andros were privileged to file their claims. Informed that New York officers intended to maintain in East Jersey the courts Andros had established, Carteret ordered the inhabitants not to have anything to do with them. He announced that he would soon call an assembly; meanwhile, he would appoint all necessary officers.[18]

Philip Carteret's last months were occupied with matters that lead one to question his judgment: first, his assertive claim to Staten Island; and second, his quarrel with the general assembly. In July 1681 Carteret notified Anthony Brockholls, the deputy whom Andros had left in charge of New York, that he had sent Vauquellin and Bollen to demand the surrender of Staten Island as rightfully belonging to the proprietor. He also issued a proclamation to the inhabitants asserting that it appeared by the Duke's release of September 10, 1680, that the island had always belonged to the proprietor but that its delivery had been avoided by the several governors of New York. He warned them not to yield obedience to the government of New York and not to act in any way until they had received orders from him. Contrary to Carteret's assertion, Staten Island was not specifically mentioned in the boundaries of East Jersey as set forth in the Duke's release. It had been occupied by New York on the ground that the Kill van Kull, which flowed around it, was "an arm of the Hudson," a part of the New York boundary. On July 26, 1681, Brockholls, after examining the papers sent by Vauquellin and Bollen, replied that he and his council could find no authority for Carteret's assumptions. Carteret retorted hotly that he had ample powers and was no longer responsible to the government of New York. He notified Brockholls that he was sending a copy of his very uncivil letter to England, where the unjust proceedings of Andros had already been condemned by the Duke. Since he had already sent him a copy of the Duke's grant and a demand for the surrender of Staten Island, he must conclude that both had been denied by him. Philip then wrote Lady Carteret of the obstinacy of the New York government, with which, if not corrected by the Duke, "we shall never be at quiet." The general assembly, he wrote, had voted unanimously that all Sir Edmund's proceedings in East Jersey were illegal.

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[17] *ibid.*, 289-291, 324-333, 337-345.

[18] *ibid.*, 346-347.

When this communication reached the Duke at Edinburgh, he prepared a letter of explanation for Brockholls which he sent to his law officers in London for scrutiny. Sir John Werden requested that if the letter was not approved, alternate suggestions should be forwarded promptly so that the Duke might reply. Werden reminded Sir Allen Apsley, the Duke's treasurer, that grants of government to the Quakers (West Jersey) and to Sir George (East Jersey) had always been regarded as detrimental to the trade and revenue of New York. In Sir William Jones' opinion a change would be of dubious validity, yet if nothing were done, "it will be in a short time of noe other effect y'an to ruine New York by driving all the inhabitants from thence, only crosse ye river to New Jersey where they may trade freely without being lyable to any such public paym'ts [customs dues]." Before the question of Staten Island had reached a conclusion, Philip Carteret had left East Jersey for good. But both the Duke's advisors and the inhabitants of New York regarded the surrender of customs as a blow to the prosperity of the colony. Even with Sir William's opinion before them, they were inflexible in their view that Kill van Kull was an arm of the Hudson, a stand which, if adopted by the crown, would deprive East Jersey of the privileges of free ports. This quarrel was not finished.[19]

The assembly met first, following Philip Carteret's return to power, in July 1681. After passing a single act dealing with the sale of spirits to the Indians, it adjourned until October. This last assembly of Carteret's was to be marked by a violent quarrel with the governor, who seems to have learned little from his experiences in dealing with the inhabitants.

On October 19, the first day of the session, the deputies sent the governor a leading query, "whether we are to look upon the late grant from the Duke to the Proprietors as the foundation of our government." Secretary Bollen on behalf of the governor and his council replied that the grant of 1664 and the Concessions were still the basis of government and expressed the hope that the seed sown by Andros had not taken so deep root that the deputies would question it. He then added, "We desire in the prosecution of yo'r Dutyes that you would fall upon something that may be for the good of the Province." The lower house, persisting in its attitude, appointed Speaker Bowne, Thomas Johnson, Edward Slater and John Elsby as a committee to question the thesis "that the Concessions, to all that are or shall become freeholders, is to be taken without any interpretation whatsoever." The governor and council agreed to a discussion with the committee, "to remove these Scruples whereby there may be a good understanding between us." In behalf of the house, Samuel Dennis, their clerk, was instructed to reply that the deputies hoped that "all Reflecting Expressions may be foreborne as not tending to Peace." Secretary Bollen stated that the governor and council wished to be informed what misrepresentations had been placed upon the Concessions. He was told that many encroachments had been made tending to the subversion of the privileges of the inhabitants, especially the declaration, dated December 6, 1672, on the true meaning of the Concessions. This was the document, reiterated in 1674, that had stripped the lower house of many of its privileges. The house had resolved that "the said Paper is a Breach of the Concessions under the Pretence of w'ch certaine persons have presumed to Act to the great prejudice of the

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[19] *ibid.*, 349-354.

Inhabitants." Bollen requested that the governor and council be informed of the alleged encroachments.

On October 22 the house resolved that a committee of four or five from each house meet to debate the matters in controversy. Bollen, in behalf of his principals, accepted the proposal, and the house appointed Speaker Bowne, Thomas Johnson, Edward Slater, and John Curtis. The house again charged that the Declaration of 1672 was in many parts contradictory to the Concessions and prejudicial to the powers and privileges of the assembly and the people. "We doe therefore desire and Expect that the same may be made voyd and of none effect." The answer of the governor and his council was vitriolic: "We well know that the General Assembly doth not consist of you the Dep'ties alone. Wisdom is Justified of her Children and teacheth men wherein they stand distinct to answer for themselves and not for the whole. You add further that you desire and expect that the body of the said Instrum't should be made void as you have had the benefitt of reading as well as weighing (as you say) the said Instrument. If you had alsoe had the Benefitt of understanding, you would neither have desired nor Expected the same to be made voyd." The house then protested strongly that the declaration was contradictory to the Concessions, in that by limiting the power of the assembly it infringed the freedoms and privileges of the people. Instead of returning a positive answer, the governor and council reflected upon the understanding of the deputies and implicitly denied their contention. Thereupon the house solemnly resolved: "Wee are Necessitated, in pursuance of the trust reposed in us, to make this o'r Protestsc'on against the said Directions, Instructions &c, and Doe hereby declare the Inhabitants of this Province not obliged to conforme Y'mselves thereunto." Once again the province was in rebellion.

The governor and council angrily took the deputies to task for their own delinquencies regarding the Concessions. Under Article 10, they pointed out, the assembly was obligated to make provision for the maintenance of the governor and the government and for the payment of quitrents in arrears. A paper to this affect sent by Secretary Bollen had been ignored. Then ensued a fretful exchange between the houses regarding what matters should be considered at a proposed meeting of the committee of the whole. Bollen argued that although certain particulars had been discussed in joint committee meetings, a debate of the whole assembly was now needed. Later in this tense day, October 28, Bollen stated that by Article 6 of the Concessions, "the Proprietors had reserved to themselves and their heirs full power to make Interpretation . . . and Alteration of the severall Articles . . . , and also to issue forth Directions and Instructions to be putt in Execuc'on att pleasure." Bollen chided the deputies for not taking fully into consideration the plain purport of Article 6. "It is a matter of lamentac'on that Representatives should be soe shorte sighted that they cannot see that he which runnes may Read." To this salvo the deputies replied that the council's statement regarding Article 6 was "so farr from Reason and Justice that being loath to declare a want of truth, wee will rather conclude a want of due considerac'on and understanding thereof, and that the foresight of the Inquisitors and Contrivers of this your last return did want a true perspective clearly to perceive what is legally to be concluded for the proprietors Interest and Common Good of the Inhabitants. Therefore we the Deputies are resolved to abide and stand by the protest already presented, and without feare the menaces o'r members mett w'th from your house, rather then betray the trust reposed in us for the publique."

Several days later Bollen reminded the deputies that although they themselves had requested a meeting of the committee of the whole to debate the public affairs of the province and a time had been agreed upon, they had not appeared. "Had wee men to doe withall that have regard to their Promise," he wrote testily, "it would be a happinesse to us; you may doe well to call it to mind that as you have the shape of men you should acknowledge your Error." He challenged them to meet again, "to the end that every member of the General Assembly may see with his owne eyes and here with his own Eares the things that concerned the present bleeding condicon of the whole Province."

Insult followed insult. The deputies pointed out that "the stop [reservation] intended in Article 6 can be no Relative to the antecedent freedoms and Immunities for it cannot in reason [be] presumed that the Governor, Councell and Assembly (who have power to make such stop as well as the Proprietor) would infringe the power of them." The prohibition should be considered in relation to the time when it was adopted. However, should the reservation have reference to the freedoms and immunities, yet it could not deprive any persons of them who were settlers before it was made, "and soe consequently there must be two governors, one for such as came before such stop and another for those that came after. . . . The Dep'ties that are now assembled are appointed by those that have been settled before such stop came and therefore may not be deprived of their freedoms." The proprietors themselves would never have thought of such a thing as the Declaration of 1672, "had it not been a bratt begotten in New Jersey, send to England to be borne, and Retransported to New Jersey."

At the order of the governor and council, Bollen also reminded the deputies that by Article 10 they were required to adopt an act obliging the constables to collect the proprietors' quitrents and pay them to the receiver general. Unless they complied with this order, they must show cause to the council. On November 1, the deputies replied sardonically that "it is the opinion of this house that wee are now about ours and the Countreyes businesse. Everything is beautifull in his season. This house expects those Acts already before you should be passed and returned to this house."[20]

On November 2 Bollen, Greenland, and Edsall, council members, came in person to the lower house. Bollen, as their spokesman, demanded that the deputies present themselves immediately to the council board. When Speaker Bowne replied that the deputies would weigh the matter, Bollen announced that by order of the governor and the council the house was dissolved. He then stated that he had been directed to leave a statement from the governor and council with the deputies. In it the lower house was excoriated for assuming the title "general assembly." "The truth is if you were all persons qualified for Dep'ties yett true wisdome would teach you better manners than to stile Yo'rselves the General Assembly." And, "inasmuch as the general assembly consists of the Governor, Councell and Deputies, ergo the Deputies [are] no generall assembly . . . you set yourselves where the Lawes of England nor yett the Concessions . . . never sett nor intended to sett men that are but in private Capacity, as upon Examinac'on many of you will prove to be; to the point of Qualificacon for that by the Law of England every man qualified to Elect or to be Elected must sweare to be leagally seized of an Estate in fee of Forty shillings p' annum . . . and by o'r Concessions to be leageally and actually seised of a Freehold Estate by virtue of a Pattent from the Lord Proprietors, . . . and some of you have confessed and it will appear that theire are some persons amongst you not Qualified accordingly and therefore butt men in private capacity and not the men intended by the writ of summons."

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[20] *ibid.*, 354-363 *passim*; Leaming and Spicer, 18.

The council's peroration was devastating: "[You] say you are about yo'r own businesse and the Contryes, you pretend to be men in Public Places butt declare in plain words you are first for you'r private End and then for the Countryes. Private Spiritts in men in publique employm't are the Jewels that addorne yo'r breasts. Every thing being beautifull in its season and soe we bid you fairwell." The deputies fired the last salvo: "The house of Deputies, with One consent did protest against the said Disolution as being contrary to the Concessions and an Innovac'on of the Governm't. Protest was Immediately made by ord'r of the house."[21]

The high-handed dissolution had repercussions. The deputies from Piscataway, Edward Slater and John Gilman, called a protest meeting of the inhabitants. A notice of this meeting signed by them was found by two members of the council, Henry Greenland and Robert Vicars. They pulled the notice down and proceeded to the meeting at the house of Francis Drake where they found a gathering "riotously and unlawfully together." Slater read several seditious papers rendering the government and the governor "odyouse in eyes and hearts of the people." The council members accused Slater of endeavoring to stir up mutiny, insurrection, and open rebellion against the "King's Royall power and Government . . . and his peace in the s'd province." They declared also that Slater had stated incorrectly that the governor and his council as well as the captains and justices of the peace were tax free. At their command the constable took Slater into custody, and Greenland and Vicars, in their capacity as justices of the peace, convicted him on their own witness. Since there was no act of assembly conferring this power, nor the power to fix punishment, they fell back on a statute concerning riots passed by Parliament in 1411! They convicted Slater and sentenced him to a year in the Woodbridge jail or until he paid a fine of £30 sterling and furnished sureties for good behavior. Slater remained in jail for six months; then the sentence was mitigated, and he was released on April 1, 1682. One year later, in Governor Rudyard's time, Slater sued Vicars for £500 on the charge of trespass and false imprisonment.[22]

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[21] *N.J.A.*, I, 363-365.

Thus Carteret's last year was an empty one. He and his council had completely lost the confidence of the people and their representatives. The court system provided by the assembly of 1675 and renewed annually had been allowed to lapse. The general assembly was prevented from reestablishing the courts because of the quarrel between the houses. Robert Vicars, who had suggested dissolving the assembly, took the initiative in urging Carteret not to propose legislation to rectify the court situation. The governor ill-advisedly resorted again to "prerogative courts," courts created between 1666 and 1673 by executive authority and gubernatorial commission. These courts had aggravated the dissension regarding the quitrents. They were dominated by Vicars, Greenland, Edsall and their kind, men unpopular with the inhabitants. Later, in 1683, Vicars was to be indicted for "disturbing, opposeing and adviseing against the setling of Courts of Justice by Act of General Assembly." When the new governor, Thomas Rudyard, arrived, he found the people incensed against the improvised system of courts and the special court commissions. The first act passed by his assembly voided the acts of the special commission courts as contrary to the Concessions and "a manifest infringement of the liberties of inhabitants of the Province."

With the dissolution of the assembly on November 2, 1681, political activity came to a standstill. Philip Carteret remained in office until Rudyard took over the reins of government on November 13, 1682. Carteret had first been governor of all New Jersey, then of East New Jersey for sixteen years, except for the Dutch reoccupation of 1673-1674 and the Andros interlude of 1676-1680. Little is known of his last year in office, and he died scarcely two years after relinquishing his post.

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[22] Edsall, *Jour. of the Court of Common Right*, 4, 74, 75.

CHAPTER VII

The Twenty-Four Proprietors

THE will of Sir George Carteret, who died on January 14, 1680, devised his property in East Jersey to six trustees, including the Earl of Bath, for the benefit of his creditors. Carteret was deeply in debt at the time of his death. Since his grandson was a minor, the province was administered in the name of his widow, Lady Elizabeth Carteret. The trustees made several efforts to sell East Jersey for between £5,000 and £10,000. However, the price seemed high; West New Jersey, a larger territory, had fetched only £1,000, while East New Jersey to date had yielded little revenue and had attracted few settlers.

Finally East Jersey was put up at auction where it was purchased by a group of twelve men, headed by William Penn, for £3,400. The purchasers bought the soil with all arrears of rent and other sums due the late proprietor and the right of government as well. The deeds of lease and release were executed on February 1 and 2, 1682. Of historical significance is the fact that all twelve proprietors, with the exception of Robert West, a lawyer of Middle Temple, were Quakers. The others were William Penn, gentleman, of Worminghurst, Sussex; Thomas Rudyard, gentleman and lawyer, of London; Samuel Groom, mariner, of Stepney, Middlesex; Thomas Hart, merchant, of Enfield, Middlesex; Richard Mew, baker, of Middlesex; Ambrose Rigge, gentleman, of Gatton Place, Surrey; John Heywood, citizen and upholsterer, of London; Hugh Hartshorne, citizen and upholsterer, of London; Clement Plumsted, citizen and draper, of London; Thomas Cooper, citizen and merchant-tailor, of London; and Thomas Wilcox, a goldsmith of London. On June 1, 1682, William Penn and "his partners" signed agreements permitting the benefit of survivorship.[1]

It should not be forgotten that the entire Restoration period was one of anxiety for the Society of Friends. Although highly organized, they were a small sect of 50,000, less than one per cent of the population of Great Britain and Ireland. By 1675 the fanaticism of earlier years had subsided, and there arose among them a numerous well-circumstanced class from which came the proprietors and first purchasers of the Jerseys and Pennsylvania. Due to the swift flow of Quakers to these plantations, their numbers in Great Britain increased but little during the decade 1677-1686. More than 6,000 migrated to Pennsylvania alone and 1,500 to West Jersey. Following the cessation of the persecutions in England, Quaker migration to America fell off sharply.

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[1] *N.J.A.*, I, 366-369, 373-376; XXI, 52.

During the Restoration period, according to records compiled by Besse and Stockdale, the astonishing number of 20,000 Friends were fined or imprisoned, and 450 died as a result of imprisonment.[2] The history of the persecutions from 1670 to 1686 is but a replica of what had gone on before, with lapses and peaks in severity. The Quakers were peculiarly vulnerable because they refused to meet in secret or to compromise on any principle that would substitute man-made law for the law of God. Such stubbornness supported the belief that religious nonconformity was tantamount to civil disobedience; thus the Friends were held in contempt, not only by the governing authorities but by a populace that regarded them as disloyal. Because of their refusal to practice guile, they were easy to apprehend and to make an example of.

In 1670 Parliament, alarmed by the increase of Dissenter meetings and by rumors that Charles II was endeavoring to relieve the Catholics, renewed the Conventicle Act. In 1672, when Charles II issued a declaration of indulgence, Parliament forced him to rescind it. Four years later, when James married the Catholic Beatrice of Modena and publicly abandoned the national church, an order in council directed a stricter enforcement of the penal laws and the recall of licenses for conventicles. As the movement to exclude James gathered momentum, the hope of relief dimmed, and this was a period of harshness and frustration for the Quakers. They were fined for countless transgressions, distrained of their goods, held up to ridicule and violence by mobs, and imprisoned under conditions that were inhumane in the extreme. Yet, in spite of their "sufferings," the Quaker ways of thrift, sobriety, and industry tended to a modest prosperity. Hundreds of members of this disciplined sect became independent shopkeepers, merchants, home manufacturers, and small landholders. From this class came the men who underwrote the Quaker settlements in America and who sought to provide their fellow-worshippers with a refuge from persecution.[3]

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[2] William C. Braithwaite, *The Second Period of Quakerism* (London, 1921), 88-176 *passim*; F. C. Turner, *James II* (London, 1948), *passim*.

Before Penn left for America in August 1682 a significant alteration took place in the composition of the East Jersey proprietorship. The twelve associates agreed "to take in twelve persons more, to make up the number of proprietors [to] twenty four." This was accomplished by each owner transferring half his share to a new proprietor. Since Wilcox had sold his share, there were eleven old proprietors and thirteen new proprietors. The new proprietors consisted of five London men, all Quakers; two Dublin men, both Quakers; and six Scots, three of whom were Quakers. The London men were Edward Byllynge, gentleman and brewer, of Westminster and chief proprietor of West Jersey, now solvent again; William Gibson, citizen and haberdasher and a prominent Quaker minister; Thomas Barker, merchant; Gawen Lawrie, merchant; and James Brain, son-in-law of Groom, and a merchant. Robert Turner and Thomas Warne of Dublin were merchants. The Scots were Robert Barclay, the great Quaker apologist; his younger brother, David; his uncle, Robert Gordon, a merchant of Cluny; Arent Sonmans, the Dutch-born Quaker merchant of Wallingford; and two noblemen, James Drummond, Earl of Perth, and his brother, the Honorable John Drummond, later Viscount Melfort of Cluny. The actual transfers to the new proprietors took place in August and September 1682, and on March 14, 1683, a new patent was issued to the Twenty-Four Proprietors, so styled by James, Duke of York.[4]

Why should the Quakers wish to take over the East New Jersey proprietary? Since 1661 when Parliament had passed an act labeling them as a dangerous and mischievous people, their leader, George

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[3] Joseph Besse, *Collections of the Sufferings of the People Called Quakers*, 2 vols. (London, 1753); William Stockdale, *The Great Cry of Oppression. . . .* (Dublin, 1683). These works are invaluable in tracing English, Scottish, and Irish Friends of this period. Unfortunately, *The Great Cry* is not indexed.

[4] "A Brief Account of the Province of East-Jersey in America . . . 1682," reprinted in Samuel Smith, *New Jersey*, 543; *N.J.A.*, I, 383-394. For a detailed study of the Twenty-Four Proprietors, see John E. Pomfret, "The Proprietors of East Jersey, 1682-1702," *P.M.H.B.*, LXXVII (July 1953), 251-293.

Fox, had pondered the wisdom of establishing a Quaker colony. In 1672 Fox himself had visited America to strengthen the Quaker organization there, and during his overland journeys from Maryland to Long Island he learned at first hand of the vast virgin territory between the Raritan and the Chesapeake. Hopeful thinking turned swiftly to reality in 1675 when three prominent Friends, William Penn, Gawen Lawrie, and Nicholas Lucas became trustees for the bankrupt Edward Byllynge. As West Jersey was Byllynge's only tangible asset and his principal creditors were Quakers, the trustees organized a stock company and offered shares in the enterprise to members of the Society. Of the 120 purchasers of shares or fractions thereof, all but a half dozen were Friends. But the trustees were not content to straighten out Byllynge's finances. They persuaded him to agree upon a Quaker settlement at Burlington in 1677, and three years later they were successful in obtaining from the Duke a recognition of the right of government for West Jersey.

The next step in extending the Quaker interest in America was the grant of a patent by Charles II to William Penn for the territory called Pennsylvania. This story is well-known. Penn's claim against the royal exchequer for £16,000 represented sums that his father, Admiral Penn, had advanced the royal navy, sums due the admiral for back salary, and accrued interest on both. More important than these claims was the influence of personal friends like the Earl of Sutherland, secretary of state, Henry Hyde and George Savile of the privy council, and Francis North, chief justice. Finally must be taken into account the loyalty of the Stuarts, Charles II and James, toward those who had supported them in time of adversity. James especially was friendly to the younger Penn, and this proved important since the lands that Penn had requested on the west side of the Delaware impinged on the Duke's holdings. Penn petitioned the King in June 1680, and the patent was issued on March 4, 1681. Until sailing for America in August 1682 Penn's energies were devoted to planning a settlement on the banks of the Delaware.

By the quintipartite deed of 1676, Penn and his fellow trustees had effected a division of New Jersey with Carteret that gave West Jersey control of the east bank of the Delaware to its sources. The grant of Pennsylvania vested the Quakers with the ownership of the west bank. These considerations prompted the Quakers to bid for and obtain East Jersey. With the addition of "the lower counties" (Delaware) which Penn obtained as a gift from James, the Quaker domain by the end of 1682 embraced an extensive territory from the Hudson River to Delaware Bay.

The purchase of East Jersey was a swift act on the part of the London Quakers. In addition to geographical advantages, East Jersey was a settled area with seven towns, beckoning sea-borne commerce on the one hand and reaching toward rich river bottom lands on the other. And there was a Quaker nucleus at Navesink with its hamlets of Shrewsbury and Middletown. A strong Quaker East Jersey would form a vital link with the Quaker settlements in Long Island. But these sanguine considerations were overshadowed by the presence of the hard-core Puritan towns of Elizabethtown, Newark, Piscataway, and Woodbridge, whose intransigence had hardly been dented by the Dutch or the proprietary government, or even by Sir Edmund Andros. The Quaker purchase of East Jersey could hardly have been regarded as a very good risk.

Indeed, the shift from twelve to twenty-four proprietors exhibited a change of purpose on the part of the Quaker purchasers of East Jersey. The unexpected sale of thousands of acres in Pennsylvania to hundreds of Quakers not only brought to a standstill the migration of Friends to West Jersey but rendered it clear that it would be difficult to find Friends willing to choose East Jersey. The entrance into the enterprise of Robert Barclay, the Scotch Quaker, afforded a somewhat different approach. There was the possibility of making East Jersey the destination of the persecuted Scottish Quakers, though this was a relatively small group. There was also the hope that East Jersey might attract other persecuted Scottish groups. More important was the enlistment of Barclay's prominent relatives, Perth, Melfort, and Gordon, in the enterprise. Though these men were hardly interested in developing a haven for persecuted Scots, they, like others of their age, were eager to speculate in New World plantations. Since the Scottish group, almost by default, seized the initiative in East Jersey colonization, this proprietorship was soon presented in the popular mind as a Scottish colony. The promotion literature under the new proprietors was issued largely under Scottish auspices.

It should not be overlooked that twenty of the twenty-four proprietors were Quakers who were interested in the Quaker domains in America. A number of them had taken the lead in underwriting the colonies of West Jersey and Pennsylvania. Byllynge was governor and chief proprietor of West Jersey, and Penn was governor and chief proprietor of Pennsylvania. Lawrie, Rudyard, Sonmans, Turner, and Mew were proprietors of West Jersey, and Rudyard, Sonmans, Rigge, Barker, and Gibson were First Purchasers of Pennsylvania. In the process of fractioning that took place from 1683 to 1687 in East Jersey shares other prominent Friends joined. Among them were Thomas Cox, Walter Benthall, and Thomas Robinson of England; Anthony Sharp, Samuel Claridge, and William Bingley of Ireland; and Robert Burnet, Andrew Jaffray, and Andrew Galloway of Scotland. George Fox and other leaders stood squarely behind the large plan of Quaker colonization. And, if royal favors were needed for the protection of Friends at home or abroad, there was the constant, if strange, friendship of James for William Penn and Robert Barclay.

"In the month of September [1682], the earls of Perth and Melfort," according to one account, "with other proprietors, elected Robert Barclay governor of East Jersey, and to induce him to accept thereof, they gifted him a propriety, with 5,000 acres more for him to bestow as he should think fit, the government being confirmed to him, during life, by King Charles II." Young Barclay was a popular choice for he was revered by the Quakers and enjoyed the full confidence of the Scottish proprietors. George Scot, author of *The Model of the Government of the Province of East-New-Jersey in America* published in 1685, believed him well-qualified in spite of his Quaker principles, and explained that the London proprietors would not have invested so heavily had they not been convinced that he would advance the welfare of the colony. Though he was and would remain an absentee governor, he was well thought of in the province. In 1687, the resident board of proprietors complimented him highly upon his services. Barclay and Penn remained firm friends until the former's death in 1690. Since Barclay confined his efforts to inducing only Scots to emigrate, no competition for settlers arose with Pennsylvania. Indeed, except for the activity of William Dockwra, the proprietors' London factor, the English proprietors undertook no promotional activities.

Among the Friends, Barclay ranks with George Fox and William Penn, and intellectually he was their superior. His father, Colonel David Barclay, was converted to Quakerism in 1666, and the next year, on his return from Scots College in Paris, Robert, too, became a Friend. Returning to Scotland he continued his studies, augmenting his Latin and French with a knowledge of Greek and Hebrew. Equipped with a degree of learning and logical skill unusual among Friends, he embarked upon his career as a Quaker apologist. Like many Scottish Quakers, he suffered persecution and imprisonment. From 1670 to 1676, Barclay published more than a dozen religious tracts including his famous *Apology*, but he wrote relatively little in later years because of the demands upon him as a minister, as governor, and, with Penn, as an advocate to woo James to a policy of religious toleration.

Barclay first met the Duke of York in 1677 while attempting to gain relief from persecution for the Quakers of Aberdeen. He became further acquainted with the Duke through his powerful kinsman, the Earl of Perth, during James' periods of exile in Scotland, 1679 to 1680 and 1680 to 1682. James' liking for this sincere young Scot was strengthened when the Duke learned that his father, the ill-fated Charles I, had received financial assistance from the senior Barclay. So great was Barclay's influence that in 1680 George Fox appealed to him to use his influence with James to obtain the right of self-government for West Jersey. Perth about this time wrote Barclay, "The Duke speaks wonderfully of you." The two had become firm friends. Because, like Penn, Barclay had risked his reputation through his association with James, he was constrained after the Revolution of 1688, to write a "Vindication," in which he said of the King, "I never found reason to doubt his sincerity in the matter of liberty of Conscience which his granting so universally after he came to the Crown hath to me [been] much confirmed after his happening to be in Scotland." He has left us a description of his last meeting with James, just a few days before William's landing. When Barclay asked the King if there was yet hope of an accommodation, James had replied that "he would do anything becoming a gentleman except to part with liberty of conscience. . . ." In short, Barclay concluded, "I must own, nor will I decline to avow, that I love King James; that I wish him well; that I have been and am sensibly touched with a feeling of his misfortunes and that I cannot excuse myself from the duty of praying for him."[5]

Barclay's notorious cousins, Perth and Melfort, because of their eminence, gave the East Jersey enterprise the stamp of solidity in Scotland. They were attracted to it because it afforded an opportunity of improving their fortunes and because the Duke, their patron, was a sponsor of colonization. Both Perth and Melfort were later to pay the price of banishment for their support of James. History has recorded them as among the most unscrupulous and unprincipled politicians of their age.

Robert Barclay, thirty-four years of age in 1682, became almost overnight the chief architect of East Jersey colonization. In 1682 and 1683 he was busy in London and in Scotland attending to proprietary business, composing instructions for the new deputy governor, addressing letters to the inhabitants, assisting with the preparation of the "Fundamental Constitutions," and arranging for the recruitment of settlers and the transport of cargoes. Barclay's zeal is well illustrated by his success in disposing of shares and fractions of shares in Scotland when several of the London proprietors decided to withdraw. In official circles Lord Minevard (David Toshard), Sir George Mackenzie (Viscount Tarbat), Lord Neil Campbell, Sir John Dalrymple, and several others purchased fractions. He also interested a number of his many relatives in the enterprise: his cousins, Sir John Gordon of Durno, Sir Robert Gordon, the younger of Gordonstown, George Gordon, and the Gordons of Straloch, John, Charles, and Thomas; his sister's husband, Sir Ewen Cameron of Lochiel; the several Forbeses of Aquorthes, relatives by marriage; Gilbert Mollison, his father-in-law; and Andrew Jaffray, a close friend and future father-in-law of one of his daughters. Through his initiative, 45 of a total of 85 proprietors and fractioners, participated, greatly enlarging the Scottish interest and, in effect, rendering the colonization of East Jersey largely a Scottish effort. Barclay's early death at the age of forty-two, in 1690, coupled with the end of persecution in Scotland, put an end to the emigration.

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[5] Henry Mill, ed., *Genealogical Account of the Barclays of Urie* (London, 1812) 1-87 *passim*; David Barclay, *Some Account of the Life and Writings of Robert Barclay* (London, 1801; *Dictionary of National Biography* (*D.N.B.*), *s.v.* Barclay, Robert; Besse, *Sufferings of the Quakers*, II, 510, 511, 519, 524, 528, 533; *Reliquiae Barclaianae* (London, 1870), a rare lithograph collection of letters, one copy of which is in the Haverford College Quaker Collection; John E. Pomfret, "Robert Barclay and James II, Barclay's 'Vindication,' 1689," *Bull. of Friends Hist. Ass'n.*, XLI (Autumn 1952), 139-140.

The proprietors chose as deputy governor Thomas Rudyard of London, a man "skilful in the Law of the Land, and zealous for the Liberties of the People." He was a noted Quaker. Indeed, in 1670 he was fined £100, an enormous penalty, "being convicted of several Trespasses and Contempts," and later his possessions were several times distrained for tithes. Both in 1671 and in 1677 he had accompanied Penn and other leading Quakers on missionary journeys to the Continent. In 1676 Rudyard and William Meade were appointed by the important Meeting for Sufferings to seek information regarding persecuted Friends in Durham and Northumberland and with James Claypoole to report on Friends in Staffordshire and Derbyshire. He was an intimate friend of William Penn, and at his office in London many of the deeds and instruments for West Jersey and Pennsylvania were drawn up. As a man of means deeply interested in Quaker colonization, he became a proprietor of West Jersey, a First Purchaser of Pennsylvania, with 3,000 acres, and finally, one of the Twenty-Four Proprietors of East Jersey. He is thought to have separated from the Society of Friends soon after his arrival in East Jersey. His appointment as deputy governor came in September 1682, and he became, temporarily, secretary and secretary-register.[6] Concurrently, Samuel Groom of Stepney received the appointment of surveyor general and receiver general. Groom was a mariner who had already visited America, and he too was a well-known Friend. In 1676 he published *A Glass for the People of New England*, and in the same year he was appointed correspondent for Virginia and Maryland by the Meeting for Sufferings. He was associated with Quaker colonization in New Jersey from the start, touching in West Jersey in 1676. His son, Samuel, Jr., purchased a fourth of a West Jersey propriety in 1681.[7]

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[6] Besse, *Sufferings of Quakers*, I, 426, 428, 438, 439; *Letters of Early Friends . . .*, ed. A. R. Barclay (London, 1841), 348; *N.J.A.*, I, 68, 96, 140, 210; *The Journal of George Fox*, ed. Norman Penney (Cambridge, 1911), II, 420 (hereafter cited as Fox, *Journal*); *The Short Journal and Itinerary Journals of George Fox*, ed. Norman Penney (New York, 1925), p. 358-359 (hereafter cited as Fox, *Short Journal*).

Rudyard and Groom arrived in East Jersey in November 1682 and took office the next month. Although Rudyard was deputy governor for only ten months, he continued in office until his successor's arrival in January 1684. He presided at the meetings of his council, kept an exact record of its proceedings, received from Groom and registered all certificates of land surveyed for any person in conformity with the warrants issued by him and his council. He also enrolled leases and conveyances, as instructed, when the warrants had been signed and engrossed with the seal of the province. Groom, as receiver general, was directed to collect all quitrents and other monies either for the benefit of the proprietors or for the public use; to expend public monies by order of the governor and council; and to execute the other tasks pertaining to his office. Rudyard, as deputy governor, was entitled to such fees as were already sanctioned or that might be fixed by the assembly. Groom would receive whatever sums the assembly decided upon.

The proprietors, in a letter to the planters and the inhabitants, expressed the hope that they would be pleased with the change in ownership. They pledged themselves to strive for prosperity but added that success could not be attained without the cooperation of the colonists. "We are resolved to advance, knowing that your interest is now so bound up with ours, that we cannot suffer if you prosper, nor prosper when you are injured." They had instructed their agents, Rudyard and Groom, they stated, to confirm the rights set forth in the Concessions and to do all that was needful for the good government and for the advantage of the colony. The stubborn and the obstinate would be suppressed, but the proprietors were hopeful that this would not be necessary.[8]

Fearful that the Duke might attach East Jersey to New York and leave the proprietors only the soil, Sir George Mackenzie, register of Scotland and himself a proprietor, in December 1682 wrote a strong letter to John Werden, the Duke's secretary, urging that East Jersey be held from the Duke, "as it is at present." Werden advised Mackenzie to appoint someone to answer the objections voiced by the Duke's advisers. Above all, he should ascertain whether the proprietors would not be willing to unite East Jersey with New York and send a proportionate number of representatives to sit in the projected New York legislature. Obviously the question was never seriously debated, for on March 14, 1683, the Duke signed a release to the Twenty-Four Proprietors that was similar to that issued in 1680 to Sir George, the younger. In it the chain of title was meticulously traced, from the Duke to Carteret and Berkeley, to Carteret for East Jersey alone, to the seven devisees of Sir George, from whom, with the consent of Lady Carteret, it had been purchased at auction by the Twenty-Four Proprietors.[9]

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[7] *N.J.A.*, I, 227; XXI, 58, 65; Fox, *Short Journal*, 113, 135, 136; Barclay, ed., *Letters of Early Friends*, 349.

[8] *N.J.A.*, I, 376-379, 411-412.

The proprietors adopted, following prolonged discussion, the Fundamental Constitutions. Since these articles were never put into effect, they are interesting only in their revelation of what the proprietors considered to be a model form of government. This constitution has been labeled "fantastic" because of its complexity. Barclay would be governor for life and would be assisted by a resident deputy, if approved by sixteen proprietors. Rudyard might, if his services were satisfactory, serve for seven years, but henceforth the deputy governor's term would be limited to three years. There would be a great council (general assembly), composed of the proprietors or their proxies, and 144 elected deputies! For the present, however, only 72 deputies would be chosen. A third of the deputies would rotate each year, and their terms would be for three years. Elections would be held annually. To be eligible to vote, a freeman was required to own fifty acres, with ten under cultivation; if a leaseholder, personal property worth £50; or if a townsman, a house with three acres.

Any member of the great council might propose a law, but adoption required a two-thirds vote, including the votes of twelve proprietors or their proxies. The common council or upper branch would consist of the governor, the proprietors or their proxies, and twelve chosen from among the deputies—a body of thirty-six. This executive body would work through four committees: public policy, trade and finance, plantations and general administration, and defense. The first three, each consisting of eight proprietors and four freemen, would meet separately weekly and jointly once every two months. The defense committee would sit with the others whenever needed and would consist of six proprietors and three deputies. In the defense arrangements, care was taken not to give offense to Quakers.

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[9] *ibid.*, 379-380, 383-394.

All laws would be published in the name of the governor, proprietors, and representatives and must be signed by two proprietors, two representatives, the secretary, and the deputy governor. The deputy governor would preside at the meetings of the great council and would be allowed two votes but no power of veto. The governor or the deputy governor was censurable by the proprietors and could not be dismissed. The secretary, register, treasurer, surveyor general, and marshal would be chosen by the governor and the common council, and would be responsible to them. No person, after 1685, might serve in more than one office.

The boroughs and the hundreds would choose their own magistrates, constables, and petty officers in such manner as agreed upon by the great council. The power of pardon for capital offenses resided in the proprietors. The governor and the four proprietors who were justices might grant a reprieve of execution for a period of one month.

No person would be deprived of his liberty except by lawful judgment of his peers, a jury of twelve men. All witnesses must promise to tell the whole truth; those committing false witness must undergo trial and punishment. Anyone committed for perjury would be publicly exposed, never to be accredited before any court. Forgers would be dealt with in the same manner.

The proprietors might vote in both the great and common councils through their proxies. No proprietor could participate in the government, however, unless he possessed one fourth of a propriety, and a proxy must own at least a tenth share. No proprietor might own more than one full share—a twenty-fourth of the province. If by happenstance he became a multiple owner, he must sell the overplus; if not, it would be disposed of by the other proprietors. The Constitutions stipulated that fourteen years' possession of land guaranteed unquestionable right of ownership.

Persons acknowledging the Almighty and Eternal God and holding themselves obliged in conscience to live peaceably and quietly would not be molested. No one would be compelled to subscribe to any type of religious worship, but no one would be admitted to the councils or other offices of public trust who did not profess a faith in Jesus Christ or who refused to obligate himself not to seek alteration in the government. Nothing in this article was to be construed as condoning "atheism, irreligiousness, cursing, swearing, drunkedness, prophaneness, whoring, adultery, murder, or other violence, or the indulgence of stage plays, masks, revells or similar abuses." For restraining or protecting the people, the great council would make specific laws.

According to the Constitutions all grants, conveyances, and similar instruments must be registered in the public registry of each county. There would be provided also a register in each county for births, marriages, burials, indentured servants, and contracts between masters and servants. Simple marriage regulations were to be observed: first, the parents of the parties must know of the event; then a public notice must be posted; and finally, solemnization would be achieved by taking one another as husband and wife before creditable witnesses. A certificate, signed by the married couple and witnesses, must be deposited.

To avoid an abundance of statutes, any law remaining on the statute books after fifty years must be reenacted. The Fundamental Constitutions could not be amended unless agreed to by 22 of the 24 proprietors and 66 of the 72 deputies. The governor, members of both councils, the principal officers, and all petty officials must "solemnly promise and subscribe to be true and faithful to the King and the proprietors and to discharge faithfully their office in accordance with the Constitutions," the instrument that endeavored above all "to maintain the true right of liberty and property, and a just balance among the proprietors and between them and the people." Whatever was essential to be retained from the Concessions should be regarded as being included in the Constitutions. No further reference to them was necessary except that which related to lands. The Fundamental Constitutions were agreed upon by the proprietors late in 1683 and signed by the required quorum of 16 proprietors.

They would not be put into effect in the province until adopted by the general assembly.[10]

Governor Rudyard was not called upon to deal with the Constitutions as they had not been completed by the time of his departure. The difficulties in the way of carrying them into effect were legion, even were it possible to create an assembly of 72 members and an executive council, operating through four committees of 36 members. The powers appropriated to the proprietors, acting through proxies, would have thrown the province into an uproar. The proprietors themselves wisely decided to postpone the introduction of the Constitutions. Actually they were to be rejected not only by the assembly but by the deputy governor and the council. A few of their provisions were to find their way into the numerous instructions sent the colony by the proprietors. The Fundamental Constitutions were ill-adapted to the American environment, especially in East Jersey with its liberal Concessions and a workable system of town government.

The twelve proprietors had issued in 1682 *A Brief Account of the Province of East Jersey in America*, and the Scottish members among the twenty-four proprietors the next year published *A Brief Account of the Province of East-New-Jersey in America . . . Wherein the Nature and Advantage of, and Interest in a Forraign Plantation to this Country is Demonstrated.* The 1682 brochure sets forth the initial steps of development. It contains plans for land distribution, for attracting settlers, and for building a capital at Ambo Point, at the mouth of the Raritan.

Ambo Point was chosen because of its location, its suitability for a harbor, and its convenience for commerce. To erect the new capital the proprietors would need to acquire 1,500 more acres of land in order to offer for sale 150 ten-acre lots, two thirds of them to be sold in Great Britain and one third in America. Those purchasing before 1682 could obtain lots for £15, and after that date for £20. Each proprietor was required to construct a house there within a year according to a builder's model. Every purchaser must within three years build a dwelling and clear three acres of upland. Four acres were set apart for a market place, a town house, and other public buildings and three acres for a public wharf. Since craftsmen and laborers were needed, the proprietors guaranteed construction men work for a year and would pay them in money, clothes, and provisions according to New York prices. A workman could save enough money in a year to obtain land under the terms of the Concessions. He would receive exemption from paying quitrent as long as he was in the employ of the proprietors. Upon registering, he would be given employment in accordance with his skill and abilities.

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[10] *ibid.*, 395-410, 444.

The governor and council, stated the *Account*, would divide the province into counties, townships, and other subdivisions. Huge tracts of unoccupied lands would be divided into seven portions, one of which, as with the existing townships, would be reserved to the use of the proprietors. The remainder would be utilized in several ways. Following the scheme enunciated in the Concessions, settlers transporting themselves and their families by the end of the year 1684 would receive 25 acres, and the same amount would be granted as headrights upon every servant if indentured for three years or more. Heads of families would be given 50 acres. A servant at the expiration of his term would receive 30 acres. Persons sharing in these benefits must register their lands with the secretary of the province and pay a small fee of 12d. The quitrent on such lands was 2d. per annum, a high rate, but anyone was at liberty to buy his quitrent for 12 years purchase. For 25 acres this would amount to 50s. Indeed, William Penn had already promised to sell off his quitrents to the settlers in Pennsylvania. In East Jersey, however, this privilege was rescinded by the proprietors before it had taken effect. For reasons of defense all purchasers were required to take up lands near some village or town. Anyone might purchase land directly from the proprietors for £10 per 100 acres. Those unable to migrate immediately might also buy, but unless they erected a dwelling house within seven years, they would forfeit half their lands to the proprietors.[11]

The *Account* of 1683, printed by John Reid of Edinburgh, was addressed specifically to prospective Scottish settlers. The Scottish proprietors, besides Perth, Melfort, Barclay, Sonmans, Robert Gordon of Cluny, and Lawrie, who associated himself with them, now included Sir George Mackenzie, lord register of Scotland, and Robert Burnet, a prominent Quaker. Perth had sold a fourth share to Sir George as a speculation. Burnet, who purchased Thomas Heyward's share in March 1683, was an intimate of the Barclays and the Gordons. According to the *Account* of 1683, Rudyard, Groom, and Penn were already in America, and two other proprietors, Robert Turner and Thomas Warne of Ireland, were expected to arrive during the summer. Though Turner, as a major First Purchaser of Pennsylvania, chose Philadelphia instead, Warne took up a long residence in Perth Amboy.

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[11] Whitehead, *East Jersey*, 314-322, reprinted in Smith, *New Jersey*, 539-546; *N.J.A.*, I, 461.

A first dividend of 10,000 acres per share had been declared, and it was thought that subsequent additions would bring each proprietor's share to as much as 80,000 acres. There was still an opportunity to purchase fractions to advantage, though the price of proprieties was increasing. For those not wishing to buy as much as a fraction, any number of acres might be bought from individual proprietors. The proprietors had agreed to make land available at £100 per 500 acres, if purchased by October 1, 1683. This price compared favorably with that of the neighboring colonies. Lots of ten acres at Perth Amboy could still be had, for a short period, at £20. The Scots proprietors' ship would sail about July 1, leaving from Leith and calling at Aberdeen. Those interested in emigrating were advised to contact Andrew Hamilton or David Falconer, merchants, of Edinburgh, or other factors in Aberdeen. Falconer and Hamilton became owners of fractions with fractions of one-fortieth and one-twentieth respectively, purchased from Sir John Gordon of Durno. This marked Hamilton's, the future governor's, entrance into East Jersey affairs.

The *Account* of 1683 anticipates George Scot's classic promotion tract of 1685 in its lengthy argument for Scottish colonization. Though the first Scottish efforts, such as Nova Scotia, had proved unsuccessful; the time was ripe for another attempt. The contention that colonies denuded a home country of population was not valid since Scotland could easily spare several thousand persons a year. Only too many Scotsmen had given their lives on the battlefield in the service of other nations. How much better if such men had emigrated with their wives and children to plant a Scotland abroad. Under the law of inheritance, the two older sons were favored, leaving the younger brothers dependent upon their bounty. Such men with as little as £100 could purchase, plant, and stock farms of 500 to 1,000 acres in East Jersey. Husbandmen, too, crowded on lands near the Scottish seaboard were raising wheat on a subsistence basis, whereas with a modest capital they could obtain a small farm on easy terms and in a few years live more comfortably than their present landlords. In Scotland servants after working six or seven years in the prime of their young manhood could not afford to marry, but in East Jersey after three or four years, because of the benefits offered servants, they would be infinitely better off. Many who had emigrated to Barbados following the battles of Dunbar and Worcester in 1650 and 1651 now possessed successful plantations there.

There were other advantages. Since England and Scotland had the same king, England would protect such a colony; while Scotland with no navy was helpless to protect them. A Scottish colony, independent of England, would not enjoy the advantages of the navigation laws and would be debarred from trade with the English plantations. Scotland would export to East Jersey woolens and linens, and since the latter could not produce sugar and tobacco in exchange, the proceeds would be available for the transport of settlers and commodities. True, if Scotland were absolutely free from England, she might be the gainer in shipping and seamen, yet ships constructed in the colony and the seamen enlisted there would be Scottish in sympathy. Finally, Scotsmen would have an advantage in living under their own traditional laws in a Scottish colony.[12]

George Scot, in his *Model of Government*, published in 1685 as a promotion tract, gives an interesting account of East Jersey after twenty years of settlement.[13] He comments favorably on its location, climate, soil, game, and fish. He emphasizes its advantages for navigation, with protected anchorage, deep water, and proximity to New York. He mentions the numerous creeks, inland waterways, and natural springs, and the vast meadowlands well drained by the streams flowing from the Blue Hills. These streams provided excellent locations for villages and for grist and saw mills. There were good stands of timber such as oak, chestnut, poplar, cedar, ash, and fir, much of which could be exported. The land, once cleared, yielded fine crops of wheat, corn, barley, and other grains. Flax and hemp would produce good linen cloth, and if the silk worm was imported, there was a good possibility of producing raw silk since the mulberry tree flourished here. Livestock, such as horses, cows, and hogs, did well because of the rich pasture provided by the grasses and clover, and there was a great variety of fruits in the orchards. Colonel Morris' iron (copper) works revealed the presence of good mineral deposits, and an abundance of lead had been discovered. With convenient harbors, horses, beef, pork, timber, pipestaves, bread, flour, wheat, barley, rye, corn, butter, and cheese could be exported to the Barbados, Jamaica, Nevis, and other West India islands, as well as to Portugal, Spain, and the Canaries. Native products such as whale oil, whale bone, beaver, mink, raccoon, and martin could be sent to England.

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[12] Whitehead, *East Jersey*, 323-330.

[13] *The Model of the Government of the Province of East-New-Jersey . . .*, reprinted in Whitehead, *East Jersey*, 365-475.

The Indians were few in comparison with those of New York, and serviceable rather than hostile. East Jersey was safe from marauding Indian bands from upper New York because of the protection provided by the fort at Albany. The Indians were useful in ridding the country of predatory beasts, and offered skins, as well as venison and fish, for sale. All lands must be justly purchased from the Indians, thus insuring that any land sold by the proprietors was free from this title hazard.

With its seven towns East Jersey was already inhabited by "a sober and industrious people," able to produce all the necessities of life. Already the proprietors could count upon £500 annually as income from quitrents. Scot, in his description of the East Jersey towns, makes use of the report of secretary of the colony of New York, Mathias Nicolls. Shrewsbury township, the furthest south, extended along the Shrewsbury River for a distance of eight miles. At its upper edge was located Colonel Morris' iron mill and plantation, Tinton Manor. Here were the cottages of his workers and servants, including sixty or seventy Negroes. The number of acres taken up by the Shrewsbury settlers amounted to about 10,000, while the outplantations accounted for 20,000 more. Living in the town were 80 families totaling 400 men, women and children.

Middletown, about six miles north of Morris', was located nine miles from the mouth of the Shrewsbury River. The townspeople had taken up 10,000 acres, while the outplantations totaled 20,000 more. The town, itself, contained 100 families, a population of 500 inhabitants. Among the plantation owners were John Bowne and Richard Hartshorne. From Middletown to New York was but a few miles across the Bay. At Shrewsbury and Middletown the sessions court alternated several times a year.

Piscataway, 25 miles from Middletown, lay six miles from the mouth of the Raritan, at whose entrance was Amboy Point, earmarked as the new capital of East Jersey. The town of Piscataway, consisting of 80 families or about 400 inhabitants, accounted for holdings of 10,000 acres, while the outplantations amounted to about 30,000 acres. There were several plantations on both sides of the river as one approached the town, including one of Thomas Lawrence of about 3,000 acres. Others were clustered about the falls or rapids three miles above the town: that of Thomas Codrington, John White and Company, merchants of New York, 7,000 acres in size; a similarly sized tract owned by John Robinson, Samuel Edsall and Company of New York; and a third of 6,000 acres owned by Palmer, White, Corsen and Company of New York. At the junction of the Millstone, on the road to Burlington, other lands had been taken up.

Woodbridge township lay northeast, about nine miles from Piscataway, separated from Staten Island by a narrow sound. A number of plantations, including that of Vauquellin, Carteret's surveyor general, lined the stream flowing through the town, and others were located on the water side opposite Staten Island. "This town," states Scot, "pretends to have more privileges than any other Town in the province, and has a charter of incorporation." Woodbridge maintained a courthouse and a prison. The population consisted of 120 families or a total of 600 inhabitants. The townsmen had taken up 10,000 acres and the outplanters, 20,000.

Elizabethtown, the first settled, was ten miles north of Woodbridge and three miles from the mouth of the Elizabeth River, opposite the entrance of Kill van Kull. There were a number of plantations in this township, particularly on the north side of the Rahway, which divided Elizabethtown and Woodbridge townships, and along the bayshore. The town was built on both sides of the Elizabeth River, and its population of 150 families comprised 700 inhabitants. The township had taken up about 10,000 acres and the plantation owners, 30,000. Newark, first called Milford, on the Passaic River, lay seven miles north of Elizabethtown and four miles from Newark Bay. Isaac Kingsland and William Sandford still owned their great tract north and east of the town, the quitrents on which, states Scot, had been purchased. Further north lay another huge tract purchased from Sir George by one Jacques Cortelyou and his partners, who had begun a settlement. Newark, described as the most compact town in the province, had 100 families or a total of 500 inhabitants. The township had taken up 10,000 acres and the planters, not including the Kingsland-Sandford tract, 40,000.

Scot mentions John Berry's and other plantations on the Hackensack. Berry's improved lands required the services of twenty Negro slaves, while Michael Smith, Berry's son-in-law, was farming 1,500 to 2,000 acres with the aid of sixteen slaves. John Baker, who had purchased 800 acres from Berry, owned eight slaves. Near Constable's Hook in Bergen Township was an extensive plantation owned by Samuel Edsall, who had sold it in 1677 for £600.

Scattered throughout Bergen were small Dutch settlements that consisted of from 15 to 40 families. The town of Bergen, near the middle of the neck, contained 70 families with 350 inhabitants, while the outplantations occupied 60,000 acres. Northward lay the tiny village of Hobuc (Hoboken), whose founder, a Dutch merchant, had been murdered, with his family and servants, by the Indians. Further north, Edsall owned a plantation and one Beinfield, another, both as yet without tenants. A few smaller farms were found further north, but on the whole this area was uninhabited as late as 1680. Bergen, too, was a compact town with its own monthly petty court and quarterly sessions court. The inhabitants were mostly Dutch, some of whom had been in the district for forty years.

Because the Concessions of 1665 had made ample provision for both the liberty of religion and of property, the province, stated Scot, had attracted enough men from the neighboring provinces to muster 500 armed men. The proprietors had drawn up a new frame of government, not yet completed—the Fundamental Constitutions—which he regarded as an enlargement rather than as an abbreviation of the Concessions. After briefly describing the Constitutions, Scot emphasized the fact that no taxes could be levied or laws enacted touching any man's liberty except by the great council, in which the inhabitants were fully represented. To prevent the settlers "from lording over one another" no proprietor was allowed to own more than one full propriety or one twenty-fourth of the country. Moreover, no proprietor could share in the governance of the province unless he owned one fourth of a propriety. The proprietors were determined that "dominion may follow Property, and [thus] the inconvenience of a Beggarly Nobility and Gentry may be avoided [as in Scotland]." Scot praised the institution of equal justice with its jury system and the fairness with which jurors were chosen. He noted that proprietors, like anyone else, were liable to trial by jury. The boon of religious freedom, too, was praised. To be a planter, one needed only to acknowledge one Almighty God; and to be a proprietor, only a simple profession in Jesus Christ was required, "without descending into any of the other differences among Christians." These were the Fundamentals, not alterable save by the unanimous vote of the great council.

Scot discussed the terms by which Scots might settle in the province. Those able to transport themselves and their families and a few servants and who possessed a capital of £100, or even less, with which to purchase provisions and equipment could obtain 100 to 500 acres. Such lands would be exempt for a period of seven years from the quitrent payment of 1/2d. per acre. If the emigrants brought enough oatmeal for bread for a year, they could find sufficient game to serve as meat. By transporting seed and livestock, they would be able, if the ground were cleared before spring, to harvest more than enough grain to care for their families and domestic animals. The transportation charges from Scotland were £5 for adults, 10s. for children under ten, nothing for babies, and only 40s. per ton for freight. The voyage normally took six weeks. For skilled servants such as carpenters, shipwrights, ropemakers, smiths, brickmakers, tailors, tanners, coopers, millwrights, joiners, and shoemakers, the benefits were great. Such craftsmen received 30 acres, enough seed grain to sow two acres, and a cow and a sow. The proprietors guaranteed those able to pay their own transportation a whole year's work at as good rates as in Scotland.

In East Jersey, Scot noted, there was no gold or silver, sugar, indigo, or cotton, There was no tobacco planting, although it was known that tobacco would grow there. The principal staples were grain, fruit, and livestock for which there was a ready market in the West Indies. Even New England would import some wheat. To substantiate his statements, Scot printed in the *Model* thirty-odd letters from persons from Scotland who had already arrived in East Jersey. The Scottish migration was underway at the time his book went to press.

CHAPTER VIII

The Governance of Thomas Rudyard

Deputy Governor Thomas Rudyard, after visiting West Jersey and Pennsylvania, wrote in May 1683 that although all the provinces were similar East Jersey afforded certain advantages to settlers. There were both fresh and salt meadows, so useful in supporting livestock through the winter, and great resources of fish, both salt-water and fresh-water. Moreover, the oyster banks were enormous. Trade was poor because of mismanagement, but good markets for cattle existed in Burlington and Philadelphia. Rudyard was pleased with the progress made in building Perth Amboy where a number of houses, thirty feet by eighteen feet, were being constructed. Oyster shells for lime were plentiful, stone was available a short distance up the Raritan, and a good supply of timber provided oak, chestnut, and cedar shingles. The establishment of several sawmills had already greatly reduced the price of boards.

Rudyard was living with his surveyor general, Samuel Groom, at Elizabethtown. He found the inhabitants self-respecting and courteous; the climate, pleasant, variable, and less cold than that of London in the winter. Though the land nearby, with its meadows and woods, was excellent, he thought that the lands above the tidewater might prove even more fertile. Winter wheat did especially well. William Penn, who had visited East Jersey a month before, told him that he had never seen such good land. The English and Dutch of New York were being attracted to East Jersey. Bergen was almost entirely Dutch, while Newark was composed of people from New England, Rhode Island, and Long Island. The greatest asset of the province was the Raritan River which afforded passage into the interior for fifty or perhaps even a hundred miles.

Two months later Groom communicated his findings officially to the council of proprietors. He praised the channel from Sandy

Hook to Perth Amboy, then the great breadth and depth of the Raritan River. He had already examined two great tracts of excellent land, one of 18,000 acres near Elizabeth and the other of 8,000 acres, surveyed by Vauquellin, at Chingeroras opposite Perth Amboy. Additional lands were being purchased from the Indians as rapidly as possible. He had already approached the Indians about a large purchase at Barnegat where a settlement was planned. Many prospective settlers from New England, New York, and other parts of East Jersey wished to move there and take advantage of the opportunity to participate in the fishing business. Groom recommended to the proprietors that he obtain 500 acres for each of them as soon as possible. He mentioned that three houses had been completed at Perth Amboy, but that progress was slow because of the scarcity and the poor capabilities of the workmen. The best were those who could spare time from their farming. He was paying the workmen in goods but was forced to give them part of their compensation in silver. Groom had already surveyed the 150 lots at Perth Amboy as instructed. The houses now under construction would cost about £50 each. Because of the outlays for building, surveying, and Indian purchase, he would not be able to remit to the proprietors any money during the first year.

Since the Indians came to Perth Amboy every summer for seafood and brought with them skins and furs, a good trade was expected to develop. More money was needed to buy lands from them, but this would be quickly repaid as new settlers seeking lands poured in. Already he was taking steps to enforce the payment of quitrents and to collect all arrears; John Berry, a special case, owed two or three hundred pounds. Groom also observed that he was having difficulty in disposing of the proprietors' merchandise at the set profit of 28 per cent since there existed an ample supply of English goods at New York City.

When Rudyard and Groom took up residence at Elizabethtown on November 13, 1682, they observed scrupulously the proprietors' wish that they act with tact and moderation. In announcing the membership of his council on December 1, the deputy governor showed every evidence of wishing to gain the good will of the inhabitants. The appointees, Lewis Morris, Sr., John Berry, William Sandford, John Palmer, Benjamin Price, and Lawrence Andress, were well known. All but Andress, the Dutchman from Bergen, were of British descent and belonged to the national church. The first four had reached East Jersey from Barbados in 1669 and 1670 and had taken up patents for large plantations. Price was a prominent freeman of Elizabethtown. Rudyard and Groom, the ex officio members, were Quakers. Proprietors in the province, if they owned a quarter share or more were qualified also to sit on the council, but the only one as yet in America was William Penn of Philadelphia, who assisted at the earliest meetings—in March 1683. The Irish Quaker, Thomas Warne, who would arrive in May, was the first regular resident proprietary member. The council was sworn in on February 28, 1683, the day before the general assembly formally convened. It was a hard-working body that met continuously while the legislature was in session and at intervals throughout the year.[1]

Within the council, harmony prevailed despite the fact that Berry, Sandford, and Palmer were loyal Carteret men. Rudyard and Penn established an attitude of reconciliation that was essential to the well-being of the province. Moreover, since Rudyard had issued a call for a general assembly at the usual time, the embittered inhabitants were given no cause for alarm. At the start both branches, the council and the lower house, were in wholehearted agreement that it was in the public interest to rectify the unwholesome situation that had developed at the close of Carteret's term. Both were agreed, too, that those who were responsible for it should be punished. It was unfortunate, though perhaps inevitable, that this cordial relationship between the houses gave way to one of deepening division as the session wore on.

Only one assembly, that of 1683, met during Rudyard's term. Since no meeting had been held since the unhappy session of October-November 1681, there was much work to be done. Moreover, with a change in the proprietorship, many of the laws needed to be revised in conformity with the wishes of the new proprietors. Consequently the assembly sat in three sessions: March, May, and November. John Bowne was again elected speaker and Isaac Whitehead, clerk. James Emott was chosen clerk of the council and deputy secretary of the province.[2]

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[1] Whitehead, *East Jersey*, 410-413, 414-416; *N.J.A.*, XIII, 3, 4.

[2] *ibid.*, 7, 12.

Fourteen deputies, two from each town, were elected to the assembly. Henry Lyon and Benjamin Parkis represented Elizabethtown; John Bowne and Richard Hartshorne, Middletown; John Hance and Joseph Parker, Shrewsbury; Thomas Johnson and John Curtis, Newark; Samuel Moore and Samuel Dennis, Woodbridge; Edward Slater and John Gilman, Piscataway; and Elias Michielson and Mathias Cornelis, Bergen. Of this group, Bowne and Moore had sat in the 1668 assembly, and Hance, though elected at that time had been disqualified with the other deputies from Navesink. Bowne, Lyon, Dennis, Gilman, Johnson, and Michielson had been members of the 1675 assembly. These and other deputies were prominent by reason of their past public service, and all were familiar with the rights and privileges of the settlers under the Concessions.[3]

Before discussing the mass of legislation that was adopted, it is necessary to consider the relations between the governor and the council on the one hand and the lower house on the other. The council was fair-minded and judicious in its attitude, and it always had in mind the welfare of the inhabitants. It endeavored to adhere to the Concessions which, after many acrimonious years, had gained status among all factions. But it needed also to consider the rights of the proprietors as to government and land, as well as the instructions sent them by the proprietors. At the beginning both council and deputies united in fostering long overdue legislation, for no laws had been adopted since 1679. Both houses joined to rid the colony of the baneful influence of the small clique that had controlled the administration during the last months of Carteret's regime. Then a dictatorial governor had exercised arbitrary powers in spite of the spirited opposition of a lower house that was resentful of being stripped of many of the privileges guaranteed by the Concessions.

The laws of the province, including those for maintaining the courts, had last been renewed for the usual period of one year in November 1679. As we have seen, Carteret's last assembly was dissolved in November 1681 after a bitter session. Popular opinion held that Robert Vicars, the province secretary, had persuaded Carteret to dissolve the assembly and that Henry Greenland of

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[3] *ibid.*, 54.

Piscataway and Samuel Edsall of Bergen, two large landowners, were parties to this advice. As a consequence, the deputies with the concurrence of the council determined to punish these men. Their first measure proposed that all courts constituted since November 2, 1681, be voided, together with all proceedings, judgments, sentences, and executions made by them. For their role in the dissolution and for urging Governor Carteret to erect courts by special commission in violation of the Concessions, these men were judged guilty of "divers Misdemeanors and Arbitrary Actions." Another bill declared Vicars and Greenland incapable of holding any office or of serving in the general assembly without its consent. "The present Proprietors," the deputies stated, "are desirous there may be a peaceable and amitable Agreement at the first entrance upon their Government of this Province." In the conference stage the council charged that Vicars "hath behaved himself Imperiously and vexatiously ag't the former house of Deputys," and proposed that he "ought to Confess his Errors in the house of Deputies . . . and there doe ask forgiveness," or be declared incapable of ever holding office. But the deputies were not satisfied and pressed successfully for the debarment of all three men.[4]

While the deputies were engaged in punishing Vicars for his violation of the assembly's rights, the council was concerned about his custody of the records as secretary. They required him to swear that the records he had turned over to Governor Rudyard were complete. But the deputies wanted to know why certain records sealed up by the governor, council, and deputies following the last assembly had been opened. Vicars protested that they had been opened in the presence of Carteret, several councilors, and two freeholders in order to make necessary erasures and interlineations. While maintaining that the deputies had no right to meddle with the secretary's custody of the records, he was unable to account for an erasure on a patent issued by Vauquellin, then surveyor general. This and other irregularities led to the passage of an act "to rectify abuses in some late records." The preamble declared that in view of the confused surveys and the disorderly and ill-recorded patents by a man who was unable to produce any commission as secretary according to the Concessions, injury had been done the proprietors and the inhabitants. The act itself voided the "pretended records" of Vicars and the patents signed by him from November 1681 until March 1682, the period following the death of James Bollen, the former secretary. Persons having a legitimate claim to such surveys and patents would be protected—"no one would be deprived of his freehold but by the lawful judgment of his peers"—but guilty persons would be punished.[5]

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[4] *ibid.*, 14-15; Leaming and Spicer, 227-228.

The assembly was not satisfied that laws were all that was needed. On March 13, when the voiding act was put into final form, a conference committee of the houses charged Vicars with stirring up the inhabitants to protest the proprietors' ownership of lands and with fomenting opposition by advising the people to uphold the Nicolls patents, especially those of John Baker and his associates at Elizabethtown. Vicars was brought before the council and ordered to give security to stand trial before the Court of Common Right, the new supreme court. When Vicars refused, Sheriff Samuel Moore was ordered to commit him to Woodbridge jail. The uproar against Vicars was extended to other members of the land-grabbing ring: Vauquellin, Greenland, and Edsall. Vicars' acts as secretary had pointed to Vauquellin. On March 21, at a conference meeting, Vauquellin was ordered to appear before the council to answer for his irregular surveys and faulty records, and a short time later an act was passed disqualifying Vauquellin and Edsall from holding office.[6]

On May 8 a grand jury brought in three bills of indictment in the Court of Common Right against Vicars, but none against Greenland and Edsall. A warrant was issued for Greenland's arrest, then the court adjourned until May 28, the day "for heareing of all Causes both Criminall and Civill." On May 11 the lower house asked the council to secure Greenland, Edsall, and Vauquellin in order that they might answer in court the charges against them. Vicars had already furnished bail. On May 29 the indictments were presented against Vicars for obstructing the settling of the courts by the assembly in November 1681 and for influencing Carteret to issue commissions for special courts. He was arraigned for "exercising Arbitrary power, authority and jurisdiccon over the planters and inhabitants" and for bringing about a dissolution in violation of the Concessions. Sandford, as king's attorney, had charge of the prosecution. Surprisingly, the jury brought in a verdict of not guilty to two of these indictments. Later the court took up several others, but Vicars obtained a deferment on the ground that he had not seen a copy of them. The court then entered a *noli prosequi* upon the indictments against Greenland and Edsall.[7]

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[5] *N.J.A.*, XIII, 21; Leaming and Spicer, 246-247.
[6] *N.J.A.*, XIII, 18, 20; Leaming and Spicer, 238.

On May 9 Vicars also underwent trial in the court's first civil law case, one of two cases of false imprisonment in East Jersey during the whole period of the court's existence. This case, too, involved the last days of the Carteret regime. As mentioned before, on November 8, 1681, eight days after the dissolution, Edward Slater and John Gilman, the Piscataway deputies, had posted a notice calling a protest meeting. Vicars and Greenland, who attended, alleged that Slater, a man "about thirty seven years old," had read seditious papers with the intent of stirring up rebellion, declaring among other things that the council had exempted its own members, the justices of the peace, and the officers of the militia from paying taxes. Vicars and Greenland, in their capacity as justices, had Slater, Gilman, Sandford, and Berry arrested and convicted of riot, for which there was no provision in provincial law. All but Slater gave security. When he refused to pay a fine of £30, he was sentenced to a year in the Woodbridge jail. After six months the council mitigated this sentence, and in March 1683 Rudyard remitted the £8 security of the others. At the first opportunity Slater sued Vicars for £500 damages for trespass and false imprisonment. Slater's lawyer, Samuel Winder, argued that the mittimus had not declared Slater guilty of riot but of being "a pernitious mutinous man in evil practices" against the king's peace, a charge too vague to commit a man without bail. The jury, naturally, found for Slater and awarded him £45 damages. Slater then proceeded against Greenland in the Essex sessions courts, and its judgment for Slater was later reaffirmed on appeal by the Court of Common Right, "in spite of glaring errors in the record."[8]

On August 14, at the new term, a jury was chosen to hear the deferred charges against Vicars as secretary and register. Another grand jury was chosen to consider charges against Vicars by Governor Rudyard. The jury presented Vicars as a person of bad reputation, as a supposed criminal and fugitive from justice in England, and as one unfit to perform the duties of office. It forthwith accused him of making false and irregular entries in the records. Although Vicars pleaded not guilty, Sandford's exhibits of his tampering convinced the court of his guilt. He was fined £100 and was committed to the Woodbridge jail until he paid the fine and gave security for good behavior.

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[7] *N.J.A.*, XIII, 53; Edsall, *Jour. of the Court of Common Right*, 7, 157-162.

[8] *N.J.A.*, XXI, 45; XIII, 25, 26, 53; Edsall, *Jour. of the Court of Common Right*, 74-75, 158-160, 167-168.

When the court asked the grand inquest if it had anything to present, it tore Vicars' reputation to shreds. For three years he had been a "common Disturber," conducting his public duties "with Insolence, Scurrility, Arbitrary Determinacion, Envy and Malice." He was a "Common Lyar," who used opprobrious language against the magistrates. Since furnishing bail "he hath been of evell conversacion," and his recognizance was not sufficient to protect the province from his malice. The grand inquest excoriated him as a "Common Nusance" to the peace and demanded that immediate steps be taken to protect the government and inhabitants from his conniving.[9]

By far the most disturbing occurrence during Rudyard's administration was the gradual rift that developed between the council and the deputies. At the time of Rudyard's displacement matters were almost at the breaking point. It seems a pity that the lawmakers who had united to rid the body politic of venal men like Vicars, Vauquellin, Greenland, and Edsall and who had forged a much-needed legislative program, could not have managed to prevent the reopening of old wounds.

A disagreement late in March reveals how this friction developed. The deputies submitted a bill relating to the public debt which was amended by the council and returned for reconsideration. Instead of calling for a conference to consider the amendments, the deputies transmitted an entirely new bill which was rejected with the admonition that if the deputies persisted in substituting new bills instead of conferring nothing would be achieved beyond "pr'senting one bill for another." In this instance, the council declared, the substitute bill was a bad one; it insinuated that the province was in debt, but no debts were mentioned; moreover, to prevent public abuse, debts should be regularly proved in a court of record, and the deputies were not such a court. Finally, to grant the validity of debts before the creditors gave proof of indebtedness "seems verry irregular & agst reason." At the second session, on May 14, the council again objected to the innovation of framing new bills instead of considering amendments in conference as tending only to disorder and confusion. This source of irritation arose early in the first session and continued throughout.[10]

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[9] *ibid.*, 162-166.

Two weeks following the convening of the assembly, the council, to expedite the legislative process, proposed a daily meeting of the conference committee. The house reluctantly assented, indicating a preference for communicating in writing. At the second session, when the council proposed that the practice of meeting jointly continue, the deputies demanded that the committee be composed of five members from the lower house and four from the council. Again and again the council urged the importance of frequent conference meetings, arguing that the assembly could conduct more business in a day than in a week if the system of written exchanges were abandoned. But the lower house insisted upon the latter except in unusual circumstances.[11]

At the second session, differences arose concerning the status of the towns as corporations and the collection of quitrents. The council proposed that a committee of both houses, thoroughly familiar with the province and the rights of the proprietors, discuss these matters in secret. Speaker Bowne appointed Richard Hartshorne and Samuel Moore to meet with Rudyard and Berry, but objected to any secrecy. The discussion moved with ominous swiftness from a consideration of township ordinances to the pretended rights of Middletown, Shrewsbury, and Elizabethtown. The matter had begun innocently enough when the deputies proposed a bill to enable the freeholders of the towns to adopt local ordinances. The council had questioned a clause permitting the towns to impose rates for certain designated purposes and "alsoe the like," a proviso it labeled "without lymit and uninteligable." If such "local and prudentiall Lawes" did not come under the purview of the governor and the council, they might contradict acts of the assembly and thus be of dangerous consequence. The deputies agreed to omit the objectionable words but pointed out that the word "laws," also questioned, was not used in the bill as alleged, but only "town orders," "a verry Customary" phrase. The council insisted that the word "orders" was appropriate only to the council and the courts. Town corporations in England used the phrase "by-laws" for such local ordinances. To put the matter to rest, the council, on May 17, suggested that the bill be set aside and that the towns "do amicably and by voluntary Consent those things w'ch this Law would enforce," a solution acceptable to Rudyard.[12]

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[10] *N.J.A.*, XIII, 43, 44, 45, 62.

[11] Edsall, *Jour. of the Court of Common Right*, 54, 57, 65.

The question of the Nicolls patents was raised, for the first time since Carteret's governorship, in connection with the Navesink towns. John Bowne of Middletown and Joseph Parker of Shrewsbury endeavored to prove that the Navesink associates were exempt from the payment of quitrents. Rudyard contended that the Nicolls patents had been voided, for in 1672 the King and the Duke had commanded all persons to submit to the governance of the proprietor, Sir George.[13] He also reminded them that in May 1673 John Bowne and James Grover, representing Middletown and Shrewsbury, had petitioned Governor Carteret that no disposition of their patent rights be made until the proprietors were consulted. Though their plea was rejected in September 1675, the proprietors had generously granted the original patentees 500 acres apiece, which they accepted and which some of them, like Richard Hartshorne himself, had actually patented. Bowne argued that not all the associates had agreed to this settlement, but Hartshorne testified that all had been willing to pay the quitrents on their land. The next day, yielding to Rudyard's pressure, Bowne and Parker acknowledged the validity of the settlement but asserted that acquiescence had been obtained through fear. Rudyard maintained that no dissatisfaction had been expressed; indeed, the associates had sent the proprietors a letter of thanks for their gifts. Bowne then stated that the associates understood that their patents were free of quitrent payments, but Rudyard insisted that no proprietary patents were ever given or sold free of the rent. The governor produced evidence that six Navesink men, including Bowne, Hartshorne, and Parker, had been delegated with full powers to treat with the proprietors, which they had done to the satisfaction of the associates. The proprietors had even made allowance for barren lands in their gift patents and had offered to make additional allowances, if deserved. So far as he was concerned, the whole matter had been legally settled.

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[12] *ibid.*, pp. 32-33, 60-61, 62, 70-71.
[13] *N.J.A.*, I, 98-107.

Bowne, Hartshorne, and Parker then asserted that the towns had made one reservation: they would pay only one-half bushel of summer wheat per hundred acres on their townlands—about one half the quitrent of 1/2d. per acre. Wheat was then worth 4s. per bushel. But when informed that this stipulation was not in writing, Rudyard would not discuss it, labeling such a secret condition "as not fit for honest men to execute." The Navesink men then proposed that the towns pay quitrents on all lands under patent leaving the question of unpatented lands for some later time. This tender was rejected, the governor and council offering instead to lay the whole matter before any of the judges or even the King in council. The council minutes conclude that the Navesink men were unwilling to submit to adjudication, "they not seemeing to Encline to any Freindly End. . . ."[14] Actually, unless the associates took out patents for their lands, they did not need to pay quitrents since unpatented lands were not listed on the quitrent rolls, a matter that was soon to occupy the attention of the proprietors.

On the day following the conclusion of these arguments, Henry Lyon, Benjamin Parkis, and Isaac Whitehead of Elizabethtown appeared before the council stating that a town meeting in 1666 had ordered a committee chosen to recommend to the town meeting an orderly and equal distribution of town lands through a first, second, and third allotment of town lots. According to their records this had never been done. They asked permission to hold a town meeting to settle the matter. Rudyard told them that they were at liberty to call as many meetings as they wished if they obtained warrants from the justice of the peace as required. He had, in accordance with the law, commissioned as justices the most reputable men in each town, including themselves, but they had not yet qualified as required by law. The machinery to put things right was in their hands, "and till then," he told them, "the fault lyes at their owne Dores, not mine." Thus ended the claims and pretensions of the towns during Rudyard's term, although they arose again when Gawen Lawrie became governor. Rudyard had escaped open rebellion, but the old wounds still festered.

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[14] *ibid.*, XIII, 70-73.

Friction with the deputies continued throughout the second session. On May 19 they proposed an adjournment until fall because they were needed on their plantations during the growing season and also because "the publick business of the p'vince seems to be obstructed." The council resented this insinuation and promptly lectured the deputies that the duty of an assembly was to cope with obstructions, if indeed any existed, not to avoid them dishonorably by adjourning. Two days later the house repeated its request for an adjournment charging that the council was wasting time in debating instead of attempting to satisfy the needs of the province. This was obstruction. The council, after expressing the hope that "the gravity of the gen'll Assembly may not be soe Debaced as to Contest needlessly about words," forthwith accused the house of encumbering legislative progress and challenged it to clean up pending legislation. The house, in a better temper, again asked an adjournment, basing its request solely upon the need of caring for crops that were endangered by the long wet spell.

The assembly, meantime, had drifted into a controversy over the proposed militia bill, which had reached the conference stage. Resorting to an old trick, the deputies submitted a new bill, to which the council objected because its amendments had been ignored. On the heels of the objection came a third request for adjournment. Highly irritated, the council told the deputies that the inhabitants would not think well of the assembly unless important matters were concluded—too few laws had been adopted, and there was much unfinished business. The deputies were irked because under the Declaration of 1672 the towns might appoint militia officers subject only to council approval, and they had refused to accept the premise contained in the preamble of the bill that the establishment of a militia was required by the Concessions. The council argued that unless a militia act was predicated upon the clause that the assembly should constitute trained bands, there could be no sanction for such legislation. And so the wrangling went on as the house quibbled about this and other measures.

On May 26 the house again urged adjournment, alleging that the pending bills were of such importance that they must consult their constituents regarding them before proceeding. Following a conference meeting, the council was astonished by a demand to confirm, review, or void the Concessions: "that the pr'vince might bee at some certaintie of the Ground & foundacon on which we stand." It immediately demanded a meeting of a committee of the whole to deal with this crucial proposition, but again the deputies insisted that the matter be handled by a committee of their members meeting with the council. The council reaffirmed its stand, "that all p'rsons Concern'd may have a full and Cleare understanding of the matters in Debate, And no opportunity given of misreporteing the matters Debated." After a long wrangle action was deferred—at the urging of the deputies! On May 30, smarting under the council's criticism, they resolved that "whereas on the 26th instant the Governor and Councill urged the Deputyes for an Answer either to owne the Concessions or Deny them, our positive Answer is wee Disowne them." At the acrimonious meeting of the committee of the whole that followed, the council argued that the phrase "owning or disowning" was not employed by it, rather the proposal "to make voyd or review the Concessions." The expression "making void" was understood by the council to mean substituting something better for that which the assembly thought of abolishing. If the deputies had in mind specific changes, they were at liberty to consider the changes they wished to propose. The next day they insisted upon an adjournment in order to consult their constituents. The council wearily consented to an adjournment until November.[15]

The third session met from November 23 until December 5, and twenty-one laws were adopted. This session was a relatively peaceful one. The deputies adopted a resolution condemning John Baker of Elizabethtown, who "from the first setling of this province to this Day hath approved himselfe to bee a man evill principled not onely to the Governm't Established in this province but also in all other his Accons," and demanded that he forever be debarred from holding office. The council unanimously agreed and ordered that whatever commissions he held be withdrawn. It appears that Baker was engaged in land speculation; among other things he was thought to be stirring up discontent by speculating in Nicolls patents. The principal reason for a lapse in the controversies of the third session was the knowledge that Rudyard had been replaced by Gawen Lawrie. Obviously it would be unprofitable for the deputies to dispute over the Concessions and other important matters until the proprietors' views, as expressed through their new deputy, were made known.[16]

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[15] *ibid.*, 74-98 *passim.*

As stated, much fundamental legislation was passed in the three sessions of 1683 despite the wrangling that went on. In the first session, in order to provide a system of county courts, the province was divided into four counties, Bergen, Essex, Middlesex, and Monmouth. This arrangement superseded that of 1678 which followed township groupings without any attempt to define the county bounds. Bergen County lay between the Hackensack and the Hudson and extended from Constable's Hook in the south to the New York border; Essex, which lay between the Hackensack and the Woodbridge-Elizabethtown line, extended to the western border; Middlesex, seat of both Woodbridge and Piscataway, embraced both sides of the Raritan and extended east to Cheesquakes on Raritan Bay and northwest to the province bounds; and Monmouth, which included Middletown and Shrewsbury, extended from the Middlesex County line to the ocean and south to the bounds of West Jersey. With the formal establishment of counties the assembly proceeded to a thorough revision of the court system.[17]

After their experience with Philip Carteret's prerogative courts it is not to be wondered at that they adopted a comprehensive system of local, county, and superior courts. The monthly court of small causes, established in 1675, was retained, and in each town three commissioned magistrates were authorized to try cases involving no more than 20s. damages. If the plaintiff or the defendant desired a jury trial, he must agree to pay costs. In March 1683 magistrates were commissioned in six towns, and in October 1686 Perth Amboy was added to the list. Without exception, the early magistrates were prominent citizens. The county courts or courts of sessions met quarterly to hear and determine civil and criminal cases. These courts replaced the county or corporation courts established in 1675. Originally a minimum of three justices was required to hold court, but in the third session of Rudyard's assembly it was voted that two of them might do so. The clerk of the court was directed to keep the records, and the marshal to call the jurors and proclaim the orders. It was the duty of the sheriff to issue all summonses and processes and execute the judgments.[18]

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[16] *ibid.*, 437-438; see above, p. 157.

[17] Leaming and Spicer, 96-97, 229.

The Bergen county court held all its meetings in the town of Bergen; the Middlesex court alternated between Woodbridge and Piscataway; the Essex court, between Elizabethtown and Newark; and the Monmouth court, between Middletown and Shrewsbury. In 1686 after New Perth (Perth Amboy) had been designated as the capital, the Middlesex court rotated among Perth Amboy, Piscataway, and Woodbridge.[19]

The Rudyard assembly provided for the commissioning annually of a sheriff and an under-sheriff for each county. Thus in March 1683 Isaac Kingsland was named sheriff of Essex; Samuel Moore, of Middlesex; Lewis Morris, Sr., of Monmouth; and Michael Smith, of Bergen. Since Morris was unable to serve, Richard Hartshorne was commissioned to serve in his stead. The Lawrie assembly of 1686, noting that several sheriffs had remained in office for more than two years, specified that henceforth no one might succeed himself until three years had elapsed. At the same time it was enacted that any person refusing to execute his commission as sheriff would be fined £15. This act seemed to be directed against Sheriff Hartshorne. On May 19, 1685, piqued because a writ of *scire facias* had been issued against him for nonpayment of quitrents, Hartshorne had requested to be excused from serving as sheriff. This request was refused by Lawrie and his council on the ground that he was the fittest person for the post and if it were granted, others with better reason would make the same request. Hartshorne's hostility to the proprietors reached a high point in October 1686 when as speaker of the house he challenged the validity of levying taxes![20]

The Rudyard assembly provided that sheriffs, justices of the peace, coroners, and constables and their assistants must swear allegiance to the King and promise to be "true and faithful" to the interest of the proprietors. Rudyard notified the loyal corporation of Woodbridge that he had confirmed the justices of the peace—Dennis, Pike, Bishop, and Hall—elected by the freeholders in accordance with the terms of their charter. Woodbridge was the only town so privileged, although the others also claimed the right to elect their own magistrates. This assembly made no provision for exempting Quakers from taking the oaths of office, but in 1686 it permitted those serving as jurors to substitute "a solemn promise in the presence of God" in lieu of the oath.[21]

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[18] *ibid.*, 99-100, 229-230; *N.J.A.*, XIII, 48, 164.

[19] Leaming and Spicer, 231, 296.

[20] *ibid.*, 228, 296-297; *N.J.A.*, XIII, 77-78, 89, 163-164; see below, p. 217.

In the second session several laws were adopted strengthening the judicial processes. All writs and processes in the county courts must be issued by the clerk of the court. Moreover, when the sheriff, in the execution of a court order, was required to distrain an offender's lands, goods, or chattels, a fair appraisal of their value should be rendered by two men of good reputation, one nominated by the plaintiff, the other by the defendant. At the third session, laws were passed making it possible to bring suit against a nonresident and to safeguard the inhabitants against "groundless and vexatious suits" by nonresidents.[22]

During the first session the assembly resolved that no freemen could be taken, imprisoned, deprived of his freehold or his "liberty of free customs," or be outlawed, exiled, or condemned but by the lawful judgment of his peers or by the law of the land; and that "justice and Right shall be neither sold, denied or deferred to any Man within this Province." The inhabitants could heartily subscribe to this guarantee; indeed the situation that had prevailed demanded it. The provision for juries was reiterated: "all Tryalls shall be by the Verdict of Twelve Men of the Neighborhood where the fact arises." In capital and criminal cases a grand inquest would present the offense, and the jury would try the offender. A reasonable number of juror challenges was allowed. It was difficult in sparsely inhabited East Jersey to enlist a panel of twenty-four as in England; usually only twelve or fourteen were returned, and on occasion jurors were impounded from among the bystanders. At the sessions of the Court of Common Right the problem became acute, as in May 1687, when a total of eighty-seven persons participated in the Court's proceedings, a condition which taxed the housing facilities of the village of Perth Amboy. Witnesses must tell the truth; if a man perjured himself he must, upon conviction, pay the same damages as the injured person would have paid; be publicly exposed as a false witness, and be discredited in any court or before any magistrate.[23]

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[21] Leaming and Spicer, 247-251, 255-256, 283.

[22] *ibid.*, 253-254, 266-268, 283.

The assembly resolved that any person resisting the authority of the province—from governor to justice of the peace—either in words or actions or by speaking contemptuously or maliciously of them in the execution of their duties, would be liable to fine or corporal punishment as the court decided. The fine would be levied by distress if necessary. This was a reiteration and an extension of a law passed in 1675. Finally, it was specified that all suits and judgments pending in the courts were valid and should be carried to conclusion in the newly erected county courts and enforced under the current agencies of justice. One might plead his case personally or through a friend or an attorney. It was not until Governor Basse's time, in 1698, that the legal profession was recognized, when the proprietors requested a law prohibiting anyone from practicing until he had obtained a license from the governor, an instruction that was ignored by the assembly. Little is known of the legal training of those who practiced; indeed, only Coke's *Institutes* and Sheppard's *Marrow of the Law* are mentioned in the court records of the proprietary period. Colonial courts, manned by lay judges, had little sympathy for Latin usage, which, indeed, Governor Rudyard himself had denounced in a pamphlet written in 1670.[24]

Court fees, posted in every courtroom, must be moderate, and extortion was punished by the judges. But it was not until 1686 that the assembly, considering "the great burthen . . . the inhabitants have sustained . . . by reason of the extraordinary fees," adopted a schedule of fees. The effect of the act was to reduce fees, except in the Court of Common Right where the expenses were greater because the assembly wished to reserve its use for important cases. In December 1683, however, the assembly restricted its costs in minor suits to the amount that a county court would have allowed. However, to spare the court, in 1694 it was ruled that a plaintiff would be denied costs of less than £10. Also by an act of December 1683, when a verdict did not exceed 40s., the court was forbidden to allow costs in excess of damages. Despite these limitations, the court's minutes reveal a busy docket.[25]

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[23] *ibid.*, 235-240, 287; Edsall, *Jour. of Court of Common Right*, pp. 49-50, 53.

[24] Leaming and Spicer, 99, 240; Edsall, *Jour. of Court of Common Right*, 39.

The Court of Common Right was a unique institution having all types of jurisdiction—capital, criminal, and civil, cases of equity, and cases triable at common law. The county courts possessed original jurisdiction, and the higher costs in the Court of Common Right tended to restrict the number of cases originating there. Indeed, no limitation was placed upon the original jurisdiction of the county courts until 1694 when a statute deprived them of cases involving life or limb. Equity jurisdiction in important matters went to the Court of Common Right.

Unlike courts in most colonies, where appeal was taken to the governor—as indeed was possible in the earlier East Jersey court of assize—the Court of Common Right was a supreme court. The "general laws" of 1683 also recognized an appeal to the King in council. Such appeals were allowed if the appellant first met all the costs of the judgment from which the appeal arose, paid all debts adjudged against him, gave in sureties double the value of the debt or other claims obtained by judgment against him, made his return within eighteen months, and paid all costs and damages. If the appellant did not prosecute with promptness, then execution would be brought against him and his sureties for the debt and damages recovered against him, together with all the costs of the suit occasioned by the appeal. Only a half-dozen appeals to the King in council were made from the court during the proprietary period, and only the case of Fullerton and Jones (1694) actually reached His Majesty in Council.

The Court of Common Right was created, as the preamble states, in order that every inhabitant might have all proper ways and means to enjoy and recover his just rights. Any person might appeal in a case involving £5 or more and by warrant or writ of error remove from an inferior court any indictment of judgment. If his case was proved, he would obtain a reversal. The court consisted of from six to twelve justices who sat four times a year. No decision would be made except by the verdict of a jury, "as is ought of right to be done by the common law." All warrants, writs, and the like would be issued in the name of the King. The court would fix the fees, and the governor and council would appoint the officers for the prosecution and the execution of all cases. The court would meet at Elizabethtown, but the assembly reserved the right to shift the place for the better convenience of the inhabitants. At its third session in 1683, the assembly voted that a minimum of two justices might hold court, but if a jury sat, four were required. At this session, too, provision was made that where the jury did not assess against the plaintiff above 40s., the defendant would be allowed no more than damages; and where the jury did not assess damages of more than £5, the court would allow the plaintiff costs not above those allowed in the county courts. Two additional changes were adopted in 1686; first, the plaintiff must send the defendant a copy of the writ at least fourteen days before the court met, and the defendant must enter his plea by the day before the convening; and secondly, the meetings would be reduced to two a year, to take place at Perth Amboy.

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[25] *ibid.*, 59-61.

Preston Edsall had shown that the Court of Common Right was not Scottish in origin. No member of the lower house where the bill originated was of Scottish birth except Henry Lyon. Nor was the act a suggestion of the proprietors, for their first mention of it appears in Governor Lawrie's instructions, issued twenty months after the act was adopted. The argument that the placing of common law and equity jurisdiction in the same hands was a borrowing from Scottish jurisprudence is not borne out in examining the minutes of the conference meetings of the assembly where the bill was threshed out. As to whether the Court of Common Right and the Court of Chancery should be one, the council members answered that "the generall Assembly might use their freedome and make one or Two Courts thereof." In the court establishment act of 1675 the assembly had indicated that at the highest judicial level—"the Bench or Court of Chancery"—common law and equity might be heard by the same judges.

The name "common right" as applied to the court had a usage in English law dating back to Edward I. Its meaning had been given authority by Sir Edward Coke. Indeed in 1670 at the famous

Penn-Meade trial at Old Bailey, William Penn had argued that Coke, in his *Institutes*, "tells us that Common Law is Common Right, and that Common Right is the great Charter of Privileges. . . ." Rudyard, too, in a pamphlet denouncing the Old Bailey trials wrote, "The Common Law of this land is nothing less than Common Right, pure and tried reason."

Aside from its name, the court was fashioned in the light of colonial needs and experience. As the governor and council had presided over the court of assize in 1675, the assembly now expected the governor to preside over the Court of Common Right and the members of the council to be well represented. Unlike the court of assize, the bench was not open to every justice of the peace but followed the Concession's rule with respect to the council of limiting the membership from six to twelve. Since the Nicolls patents and quitrent controversy had hung over the land for a score of years, it was important that the Court of Common Right must not be permitted to become an agency for the proprietary interest. Rudyard and his council were determined to prevent this from happening.[26]

Of the original court, Berry, Sandford, Price, Morris, and Andress of the council were friendly to the proprietary interest; while Samuel Wilson and Benjamin Parkis, a deputy, were freemen of Elizabethtown. Henry Lyon as province treasurer was excused from serving, and Wilson was replaced by John Baker, an adroit Elizabethtown patentee. Samuel Dennis was a deputy from Woodbridge, and John Ward, a prominent freeman of Newark. John Bowne, one of the twelve patentees of the Nicolls Monmouth patent and the powerful speaker of the house, was also appointed. Sandford did not sit regularly on the bench since he was engaged as attorney general of the province. The deputy governor sat as the presiding officer. Until the establishment of the resident board of proprietors in 1685 the local proprietors, if the size of their holdings qualified them, were also members of the panel. Thus Samuel Groom, until his death, and Thomas Warne were justices and attended regularly. During the first years, attendance on the bench was high, and the decisions reveal the marked intention of ridding the province of

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[26] Leaming and Spicer, 96-97, 232-233, 239-240, 270-271, 295; Edsall, *Jour. of Court of Common Right*, 8-11, 62; *N.J.A.*, I, 28; XIII, 24, 25.

Vicars and the other members of the land-grabbing group. Since every councilor was eligible to serve, one would expect the councilors to be in the majority. These men, chosen by the governor, had sworn to be faithful to the proprietors; and in this sense the proprietary interest was well protected. Few councilors, especially before 1688, were definitely allied to the Elizabethtown cause. Since initially two appointees were deputies, one would anticipate that the lower house would be regularly represented. This practice of the earlier years soon disappeared.

The governor, who owed his appointment to the proprietors and who appointed the justices, determined the composition of the bench. Moreover "his role in presiding, in summation, in jury charging, and in delivering the Court's per curiam opinions" gave him a weighted participation. The court, before 1688, had at least one resident proprietor on the bench besides the governor. Though the proprietors were less numerous after 1692 their influence was maintained by David Mudie, variously a member of the council and the resident board. In 1699, near the close of the proprietary period, the court and the council were practically identical in personnel. From 1692 to 1700 only one noncouncilor, Samuel Hale, a mechanic, was a justice.

Thus by 1683 the province had a supreme court with powers broad enough and with jurisdiction extensive enough to afford the inhabitants a full measure of justice and to protect the rights of the individual. Tenure on the bench as in England was at the pleasure of the council. Not until the eighteenth century did the colonists demand permanent judges. In the late seventeenth century service on the bench was only a part-time occupation. The influx of new settlers afforded an opportunity of improving the quality of the justices. Though one finds merchants, surveyors, physicians, druggists, carpenters, and even a cordwainer, most of the justices were men of affairs—large planters and landowners—who had picked up a practical knowledge of the law and judicial procedure. In the early court the Barbadians—Berry, Sandford, Morris, and Kingsland—had a wide knowledge. Rudyard was a lawyer, while Lawrie and later Governor Hamilton were highly informed men. But aside from Rudyard and Palmer, not until 1700 with the appointment of Benjamin Griffith was there another legal practitioner on the bench. Palmer, who moved to New York in 1685 and entered the service of Governor Andros, was on the first bench. The Scots, after their arrival in numbers, contributed David Barclay, John Campbell, John Johnstone, David Mudie, George Keith, and, of course, Hamilton.[27]

The court acts were followed, in the first session, by the adoption of a code of general laws containing 32 provisions covering a wide variety of topics. The Carteret code, like the court acts, had lapsed because it had not been renewed in 1681. The new code provided striking changes in criminal, civil, and procedural matters. With the appearance of legislative bodies in West Jersey and Pennsylvania, the Puritan code that dominated the first East Jersey assemblies was mitigated, and the assembly of 1683 contributed to this trend. In the area of criminal law two new sources were drawn upon: William Penn's "Laws Agreed Upon in England," and the twenty-first and twenty-second chapters of Exodus. Penn, himself, sat as a member of the East Jersey council in March 1683 while the new code was being formulated, and he influenced its revision. The general laws, in procedure, followed closely the laws of England, but on the substantive side there were fewer capital crimes. The ameliorating "benefit of clergy" played no role in East Jersey. This was essentially a Dissenter community and condemned, as one would expect, "all offenses against God, as cursing, swearing, lying, prophane talking, the drinking of healths, obscene words, incest, sodomy, rape, adultery, fornication, and other uncleanliness." The assembly, too, legislated against many of the contemporary English dissipations such as stage plays, games, masques, revels, bullbaitings, and cockfights, proclaiming that they excited people to "rudeness, cruelty, looseness and irreligion."

Later in the session the assembly adopted specific acts dealing with several of these offenses. It re-enacted the Carteret law on profanity, raising the fine from 1s. to 2s. 6d., and those unable to pay it were put in the stocks for three hours. Children whose parents could not pay the fine were subject to whipping. The fine for "drunkedness" was set at 5s. compared with fines varying from 2s. 6d. to 10s. between 1675 and 1677. Those unable to pay were put in stocks for six hours. The law against profaning the Sabbath, after a spirited exchange between a righteous Puritan-Quaker house and a doubting Anglican council, was re-enacted with a fine of 5s. for a first offense and 10s. for each succeeding offense, or two hours in the stocks for those unable to pay. The fines were allocated for the use of the poor in the place where the offense took place. No provision was made for informers, a forward step.

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[27] Edsall, *Jour. of Court of Common Right*, 18-22, 27-31, 157-191 *passim*; *N.J.A.*, XIII, 42.

Oddly, it was the council that forestalled harsher penalties for not attending church services. Its members argued that compulsory worship was false worship: "The worship of the wicked is Abomination to wholy God." To the proposal that there be a fine of 5d. for not worshipping in public or private, the council took the position that "it seems unreasonable to take witness for privat worship." This strong antagonism against using informers was typically American. The deputies were assuming, concluded the council, that the first day was holier than other days, whereas Scripture, "Rom. 14.5.6.," states that the Lord "had no profane days." Finally the council recorded that "Lib'ty of Conscience ought to be pr'ferred and Licentiousness punished." The bastions of the Puritan code were beginning to crumble.[28]

The criminal code embodied in the general laws served the province with little modification until 1702. It differed radically from the Carteret code of 1668 (readopted in 1675) which had been practically identical with that contained in the Duke of York's "Lawes," first made public by Governor Richard Nicolls on March 1, 1665, at a "general meeting" at Hempstead, Long Island. These laws "were collected out of the Severall Laws now in force in his Majesties American Colonyes and Plantations," principally New England. Thus Nicolls and the East Jersey assembly of 1668 had extended the Puritan criminal code as far south as the Maryland border. Patterned after the Mosaic, this code differed from the law of England in designating certain offenses as capital crimes which were either not penalized there or left to the church courts.

The code of 1683 punished incest as a felony and penalized adultery with a fine of from £5 to £50. Those unable to pay the fine were subjected to the Biblical "forty lashes less one" at the public whipping place. The code punished fornication by a £5 fine or three months in prison. Proven adulterers and fornicators were required to furnish a bond of good behavior for a year. Lawrie's assembly of 1686 substituted ten lashes with whip or rod for fornicators and extended the time for prosecution from six to eighteen months because of the difficulty of substantiating such charges. If the unmarried woman was with child, the man charged with being the father, even though not proven, must support the child. But, if the woman wrongly charged the man, she would receive thirty instead of ten lashes, and the child would be a charge on the community. Even with these mitigations the penalties for bastardy were less severe in England where if the guilty couple refused to support the child the woman was sent to the house of correction and the man was whipped.[29]

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[28] Leaming and Spicer, 240-242, 245-246; *N.J.A.*, XIII, 36-37.

The general laws set forth, for the first time, regulatory terms for indentured servants. No white servant, if seventeen or over, could serve more than four years before becoming legally free; those under seventeen were freed at twenty-one unless bound by indentures signed prior to arrival. No servant could be sold or transported outside the province without his consent. If a new agreement of indenture was entered into, it must be acknowledged in the presence of a magistrate. At the expiration of the servant's term of service, the master would provide two suits of apparel, an axe and hoe, and seven bushels of seed corn in accordance "with the custom of the country." Cruelty to servants was penalized; if the master immoderately corrected his servant, he was punished by the court; if he destroyed an eye or a tooth, the servant was freed. Owners of Negro slaves were required to furnish them with sufficient food and clothing.

The Carteret laws protecting masters' interests were renewed: thus a person was fined £5 for aiding a servant to escape and 10s. a day for concealing a runaway, and the time of service was doubled for each day of the servant's desertion. In 1686, under Lawrie, further protection was afforded the system of indenture: the sum of 20s. was awarded anyone returning a runaway, with 6d. per mile added, and the justice of the peace would allot the added time according to the claim of the master. Persons purchasing stolen goods from servants or slaves would pay a fine of £5 and for each subsequent offense, £10. The servant or the Negro or Indian slave offering such barter could be taken into custody by the person to whom the goods were offered and receive as reward half a crown, paid by the master.[30]

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[29] Edsall, *Jour. of Court of Common Right*, 113-115, 123; Leaming and Spicer, 284-285.

Each county was required to maintain a jail for felons, persons committed for debt, vagrants, and idlers. In December 1683 the county justices were ordered to lay a tax for erecting a jail and a pound and to appoint collectors to gather the tax. If the justices neglected to do so, the governor and council would assess the tax and erect the structures. Lawrie's assembly in 1686 required that prisoners pay the jailor 1s. 6d. per week for maintenance and 1s. per week for his service. If the prisoner could not assume such charges, the person causing his imprisonment would bear these costs, and if at the expiration of three months repayment was not made, the prisoner became his servant. Should the prisoner refuse, he would continue in prison on a diet of bread and water at his own expense until he capitulated.[31]

The Rudyard assembly, at its third session, spelled out measures for coping with "drunkedness." This vice was held to be increasing because of the many persons selling drink in private homes, "which is much to the dishonour of God, impoverishment of the common Wealth and wrong to several poor Persons." Henceforth no one could sell small quantities of drink without a license. Offenders were subject to a fine of 10s. for each violation, a third to be paid to the informer and the remainder for the benefit of the poor. The statute also provided for the licensing of ordinaries. Licenses were issued with the approval of two justices of the peace. A recognizance of £20 was required for the keeping of an orderly tavern. In 1692, during Governor Hamilton's term, the justices of the peace were required to regulate the prices charged by the retailer, and an excise tax was levied upon strong drink, beer, and hard cider. This act, except for the tax, remained in force until the end of the proprietary period.[32]

At the second session, in May, the first of a series of laws for the regulation of livestock was adopted. Swine running at large had caused damage to crops and meadows, giving rise to frequent altercations. Henceforth, anyone killing a stray hog received a reward of a third of the proceeds of the sale of the meat at 1d. per pound. This harsh measure caused great opposition. In December under pressure the assembly stipulated that hogs might be turned loose following the harvest season, from October to January, providing three-fourths of the inhabitants of the township agreed. Lawrie's assembly, deeming this statute still too severe, empowered the towns and neighborhoods to adopt local ordinances and impose their own penalties.

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[30] *ibid.*, 236-238, 254-255.

[31] *ibid.*, 235, 268, 291-292.

[32] *ibid.*, 261-262; Edsall, *Jour. of Court of Common Right*, p. 125.

In December 1683 the assembly turned to the troublesome problem of stray horses. A ranger was appointed in each county to receive strays, register them, and publish notices about them. All unmarked horses of two years or older would be forfeited to the proprietors unless the alleged owner was able to substantiate his claim before two justices. When the animal was restored, the owner would pay the ranger 15s. and an allowance for expenses. No one might brand a horse except in the presence of the ranger, a constable, or a justice. The fine for violation was £20, divided among the informer, governor, and the public treasury. The ranger would keep a register of the natural markings and the brand of each horse. Persons bringing horses or cattle into East Jersey must have them registered under pain of forfeiture; likewise drovers passing through the towns must show their permits to the ranger. No person might search the woods for strays without a license from the ranger under penalty of a £5 fine, and any one guilty of taking an unregistered animal from the province would be fined 20s. per beast.[33]

At the same time regulations for public improvements were adopted. Lotholders, by agreement with their neighbors, must build fences at least four feet, three inches in height. Provision, too, was made for the building of public improvements such as highways, bridges, ferries, and landings. Committees in each county, with the governor and surveyor general as ex officio members, were appointed to undertake and supervise such improvements. These overseers included the leading men in each county: for Essex, John Palmer, William Sandford, Benjamin Price, Isaac Kingsland,

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[33] Leaming and Spicer, 260, 262-265, 288-289.

Henry Lyon, Benjamin Parkis, Thomas Johnson, and John Curtis; for Middlesex, John Palmer again, Thomas Warne, Stephen Warne, Samuel Dennis, Samuel Moore, Edward Slater, John Gilman, and Hopewell Hull; for Monmouth, Lewis Morris, John Bowne, Richard Hartshorne, John Hance, Joseph Parker, and Lewis Morris, Jr.; and for Bergen, Lawrence Andress, Enoch Michielson, Hans Diederick, Michael Smith, Hendrick Van Ashtrum, and Claus Van Sarmarant. Decisions reached by the majority of the overseers of each county were submitted to the governor and council and, if approved, were entered in the public records. The improvements, which belonged to the county, would be maintained by it at the expense of the persons or townships most benefited. The county was required also to keep a pound for cattle trespassing upon the public highways. In 1686 the assembly authorized the inhabitants of each county to appoint four or five men to establish rates for defraying the charges of the public improvements, the schedule of such taxes to be approved by the justices of the quarter sessions. Defaulters would have their goods distrained by the constable. These assessors, with the approval of the justices, issued orders concerning fencing along the highways. Lawrie's assembly also passed a law to prevent the stealing of boats and canoes. Another measure prohibited the carrying of dirks, swords, pistols, and other weapons upon pain of a fine of £5 and outlawed duels by means of a stiff fine of £10 for issuing a challenge.[34]

Not until the December session of Rudyard's assembly did the legislature get around to the touchy matter of taxation for the support of the province. Instead of the former levy of £12 40s. on each of the six townships, an assessment by county was adopted: Bergen, £11; Essex, £14; Middlesex, £10; and Monmouth, £15. This was a return to a total of £50, first levied in 1677. Taxes were payable in kind from a restricted list of commodities. Winter wheat for tax purposes was valued at 4s. 6d. per bushel, summer wheat at 4s., Indian corn at 2s. 6d., and merchantable pork at 50s. per barrel. Six persons were appointed as assessors in each county: for Bergen, John Berry, Hans Diederick, Arent Tores, Enoch Michielson, Hendrick Ivoriss, and Mathias Cornelis; for Essex, William Sandford, Benjamin Price, Thomas Johnson, John Curtis, Benjamin Parkis, and George Ross; for Middlesex, Samuel Moore, Samuel Dennis, John Bishop, John Gilman, James Gilles, and Edward Slater; and for Monmouth, John Bowne, John Throgmorton, Peter Tilton, John Hance, Judah Allen, and Joseph Parker. All persons were required to submit an inventory of their improved lands and stock to the assessors, who would then determine the rates. Those failing to do so would be assessed at three times the normal amount. Grist mills, saw mills, and tradesmen "not having other visible Estate" were liable to pay the province tax also. The constables were allowed 3d. on the pound and were directed to make the collections and turn them in to the province treasurer. On a warrant from the justice, they could institute distress upon the delinquent. Henry Lyon, appointed treasurer by the assembly, was allowed 6d. per pound on the collections and was required to render an account of his receipts and disbursements to the assembly.[35]

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[34] *ibid.*, 256-258, 262, 287, 289-290, 294.

Land, trade, and Indian relations were also subjects of legislation by Rudyard's busy assembly. All patents and grants of land issued in the name of the proprietors and approved by the majority of the council were valid. This accommodation of 1683 lasted but a short time, for in April 1685, by instruction of the proprietors, a resident board of proprietors was assigned the responsibility for land distribution.[36]

The assembly was concerned with establishing regulations that would protect the natives from strong drink. Since the East Jersey Indians were neither numerous nor hostile and since there was little trade at stake, the assembly was preoccupied with precautionary police measures. Though advancing the premise that brandy, rum, and other strong liquors, if not abused, were "useful and beneficial to Mankind," hence should not be denied even the natives, a heavy fine of £10 was levied upon persons selling Indians in amounts great enough to induce "drunkedness." Realizing that proof would be difficult to establish, the assembly decreed that persons from whose houses an Indian emerged in an intoxicated state were *ipso facto* guilty and must show proof that the Indian did not obtain his liquor there. Moreover, it was forbidden to give Indians meat or drink on credit under penalty of a 40s. fine, which would be shared with the informer. All were urged to treat the natives with charity and humanity. For example, if an Indian were in his cups late in the day, he should be permitted, if he requested it, to spend the night at the vendor's. Thus the code that began in 1673 and continued thereafter was strengthened in 1683, but the penalties of imprisonment and whipping tended to give way to fines. In 1692, deeming the rule of moderation a failure, the assembly punished those selling liquor to the Indians with from five to twenty lashes, only to reverse itself the next year by re-enacting the fine. The whole situation was troublesome. The assembly agreed also that land might be purchased from the Indians only with the written permission of the governor. Such purchases must be made in the name of the proprietors and entered upon the public records. Offenders would be prosecuted as seditious and as violators of the peace.[37]

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[35] *ibid.*, 274-276.

[36] *ibid.*, 269.

The basic defense acts of 1668 and the following years were reenacted without radical change: all men from sixteen to sixty must provide themselves with guns, powder, and other arms and drill two days in the spring and two in the fall. The fines for nonperformance were smaller, with a penalty of 15d. for each day's absence compared with the previous 5s. As before, ministers, magistrates, constables, and deputies were exempt from service, but the clause in the bill relieving Quakers—"p'rsons conscientiously refusing to bear arms"—was not adopted. All military officers were appointed by the governor. Thus in December 1683 the following were commissioned: John Berry to be a major for Bergen; William Sandford for Essex; Justice Tyler for Middlesex; and John Bowne for Monmouth. John Parker was appointed captain at Elizabethtown, John Slocum at Shrewsbury, and Thomas Codrington for the Raritan district above Piscataway. Woodbridge, by charter right, and Bergen town, by special privilege, were permitted to appoint their own officers, subject to confirmation by the governor.[38]

Rudyard's assembly raised the stipend of the deputies from 3s. to 4s. per day, to be paid by the township, and specified that the towns already in arrears must pay up at the old rate of 3s. The assembly also ordered that deputies would be fined 5s. for each day of absence, and if this was not paid the sheriff would proceed by distress to collect it. In 1686, Lawrie's assembly, "being desirous to ease the Charge of the Country in paying great salaries," reduced the deputies' salary to 3s. per day, to be levied by the townships in money, pork, or wheat. Members of the council were exempt from paying the special tax levied for the salaries, if they were residents of any of the towns. The clerk of the lower house was allowed a salary of 4s. per day from the province tax and the clerk of the council £10 additional for transcribing the new laws. Later, objections arose about supporting the council's clerk from the tax income.[39]

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[37] *ibid.*, 133-134, 273-274; Edsall, *Jour. of Court of Common Right*, 125.

[38] Leaming and Spicer, 85-86, 277-278; *N.J.A.*, XIII, 116.

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[39] Leaming and Spicer, 272-276, 284.

CHAPTER IX

The Scotch Migration

1683-1688

In the latter part of the seventeenth century the population of Scotland was about one million, hardly a fifth of that of England. It was concentrated mainly in the central plain and in the numerous towns of the eastern seaboard, particularly about the Firth of Forth. Edinburgh had nearly 30,000 inhabitants; the other towns were much smaller. The Quakers of Scotland were never numerous; even in 1688 when the active persecutions were nearing a close there were hardly a thousand of them. Though the Quakers were relatively few, their lack of numbers was compensated for by devotion and zeal. Most of the Scottish Quakers were concentrated between Aberdeen and Edinburgh, and here the "sufferings" were greatest. Quakerism in Scotland did not enjoy even the limited success that it had in England. In Scotland, Calvinism was the creed and Presbyterianism the religion. Calvinism had endowed the populace with a high sense of purpose and responsibility. What has been called "churchy pride" was strong in Scotland because it was not rooted in outward pomp and ceremony as in England, but in the great achievement of the Reformation. The Scottish Calvinists took great pride in their educated ministry. They had little patience with "the inner light" of the Quakers, and they resented the Friends' attacks upon the doctrines of election, predestination, and atonement. Moreover, the Quakers ridiculed the cherished institution of the Scottish Sabbath and, as in England, the ministry and the church's service. The Quaker view of the Scriptures irritated the Scots still further since the Friends held that the authority of the Holy Spirit took priority over the written Word. Scottish Presbyterianism never wavered in its loyalty to the Calvinistic view of the Bible.

The Scottish economy at this time was a self sufficient one with little interchange of commodities. Foreign trade had suffered severely from the Anglo-Dutch wars, and the old trade with Flanders had fallen into decay. Trade with France and England was limited by tariff barriers. Moreover, there was little growth of what were essentially home industries. "Poverty trained the Scots in habits of thrift and self-reliance; persecution obliged many of them to prefer their faith to their lives; and the climate completed the process by introducing an intolerance of the frivolous and the meretricious." Ambitious young Scots left the country, enlisting in continental armies, studying in Dutch and French universities, or joining the roaming band of international Scottish peddlers. "The best roads in Scotland were those leading out of it." Because of their poverty and backwardness the English regarded the Scots with dislike and contempt, a feeling that was fanned by English colonial officials in the American colonies and applied especially against Scottish merchants and traders. The Scots strove to overcome their handicaps by hard work, but little progress was made until the Act of Union of 1707.

Medieval vestiges were slow to disappear in Scotland. The courts of barony, controlled by the local lairds, imposed many obligations on husbandmen and cottars. "Multure," a feudal due which forced the tenant to have his grain ground at the laird's mill was still common. Farmers held their lands from crop to crop without leases, and eviction was common. The landlord as justice fixed the local taxes and collected the fines for his own use. Justice in the sessions courts was frequently perverted. Juries might be imprisoned for their verdicts and torture was used to extort confessions. Scotland was politically backward, too, because of its complex parliament of four estates, its strong and arbitrary council, and the political power exercised by the general assembly of the Church of Scotland. This condition of affairs rendered it easy for the Stuarts and their tools, Lauderdale and Perth, to control the country. Lack of opportunity, feudal vestiges, and a weak system of government supplied strong incentives for emigration. To these must be added religious persecution.

The repression of Presbyterianism, the religion of the vast majority of Scots, had been going on since Charles II ascended the throne in 1660. All ministers who had received their charges from congregations and presbyteries without collation by their bishops must now apply to them for their benefices. Several hundred, a third of the whole, refused, preferring ejection. Bishops were restored to the Scottish Parliament, and James Sharp, the new bishop of St. Andrews, their head, was regarded by the people as a turncoat. Heavy fines were imposed for nonattendance at church, and the ejected ministers were not permitted to reside within twenty miles of their parishes. Troops were quartered in recalcitrant districts, especially in the southwest. A new court of high commission harassed the people. Disaffected districts were systematically disarmed, and field meetings—the last refuge of the people—were broken up. There were bloody outbreaks, and those who were hanged were regarded as martyrs. Though Lord Lauderdale, who was regarded as less vindictive, supplanted Sharp in influence, his purpose was to elevate the royal prerogative above all else. His policy of permitting the ejected ministers to return to their parishes, if they accepted the episcopal establishment, further alienated the people. His act of supremacy bluntly declared the King's authority to be supreme over all persons and in all ecclesiastical causes. Additional conventicle acts were passed, and landlords and employers were made responsible for the conformity of their tenants and workers. In 1677 landlords were required to give bond for the good behavior of all persons on their lands. Many, feeling that they could not control their deeply aggrieved men, refused. Additional troops, many of them hated Highlanders, were quartered in the villages to enforce the conventicle code. It is not surprising that many thoughtful Scotsmen considered fleeing the country for a more promising environment in the New World.

During the last years of Charles II, the Scots were in a rebellious state of mind. In 1679 the fanatical Covenanters were defeated at Bothwell Brig. The Stuart government then pursued a policy of revenge similar to that following the Rye House Plot, except that its victims were humble folk. The persecution "merely hardened the temper of the lowland Scots," an attitude that was reflected in the emergence of the Cameronian sect, which in 1680 renounced Charles as king. These extremists were in open arms against the government and in 1684 warned that any agent attempting to apprehend them would do so at his peril. Sir George Mackenzie, the lord advocate, and James Drummond, the chancellor, undertook to hunt down the rebels. The latter assured King James that, as Scotland was not England, "measures need not be too nicely kept with this people."

James was proclaimed king of Scotland in February 1685. The Drummond brothers, James, later Earl of Perth, and John, later Viscount Melfort, minions of the royal authority, set out to discredit Queensbury, a moderate who looked askance at the King's arbitrary exercise of the royal authority. They readily agreed to push the King's harsh measures through the parliament. Among them was an act prescribing the penalty of death for all attending conventicles and for all who sheltered such persons. Another imposed the death penalty upon witnesses who refused to give evidence in treason trials. The great body of Scottish nonconformists—those who refused to attend the state church services—were thus made liable to a new persecution, while the Cameronians were excoriated as treasonable. Death was decreed for those taking part in anti-Catholic demonstrations, and high Scottish churchmen were removed from ecclesiastical office for opposing the establishment of Roman Catholicism. The prisons, filled since 1679, were now crowded. In 1685, when the Scottish migration to East Jersey was at its apex, Dunottar Castle near Ury was taken over to supplement the notorious Bass Rock prison outside Edinburgh. Such was Scotland's "killing time." But even Claverhouse, the arch persecutor, realized that only mass extermination would eradicate Calvinism from lowland Scotland.

In April 1685 James's second parliament convened at Edinburgh. Queensbury, who, unlike the Drummonds, had refused to embrace Catholicism, was replaced as commissioner by Melfort. James demanded an act removing all disabilities on Roman Catholics, but he refused to couple this boon with relief for Presbyterians. To obtain his end he had to resort to his royal prerogative. In February 1687 complete toleration was granted Catholics, who were declared eligible for all public offices. To make this decree palatable James permitted Presbyterians to worship in private, but the death penalty remained for those expressing seditious opinions in conventicles. As limited as this concession was, it furnished a glimmer of hope after years of persecution.

Meanwhile in England, under the influence of William Penn, James issued a royal proclamation for the release of those who were in prison for conscience sake. In this way 1,200 Friends regained their liberty. James proclaimed his first English declaration of indulgence on April 4, 1687. All penal laws dealing with ecclesiastical matters were suspended. Neither the test acts nor the oaths of supremacy were henceforth to be applied to officeholders. The King recommended that the English parliament approve the measure. James was hard bent upon securing the support of all Dissenters, prompting Lord Halifax, then out of office, to warn them, "You are therefore to be hugged now only that you may be the better squeezed at another time." Penn and his Quaker colleagues were striving for complete freedom of worship, while the King's objectives were freedom of worship for Catholics and their unqualified eligibility for public office. The second declaration of indulgence was issued in April 1688, but the requirement that it be read from every pulpit, and the birth of an heir in June triggered the events that led to the Glorious Revolution. With the accession of William, all Scottish ministers ejected since 1661 were restored; and the congregations regained the right to accept or reject candidates for the ministry. Through a Confession of Faith, which William agreed to, the church was defined as the whole number of the elect, the doctrine of predestination was reaffirmed, and synods and councils were recognized by the government. Regular meetings of the general assembly of the Presbyterian Church were restored. In view of these changes it is fair to state that by 1690 neither Calvinist nor Quaker would leave Scotland to seek religious freedom elsewhere. Even the lure of improving his economic status had to contend with the love of the Scot for his native heath.[1]

Scottish emigration to East New Jersey, slight as it was, took place for the most part between 1683 and 1687. It consisted of both Quakers and Calvinists. The London proprietors willingly left the initiative to Barclay and the Scottish proprietors. Nevertheless, since they had invested in the enterprise, most of them attended the proprietors' meetings and worked closely with Governor Barclay. As time passed, leadership in London was gradually assumed by the ambitious, self-seeking William Dockwra, who was formally appointed register and secretary of the province in the year of Barclay's death, 1690.

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[1] David Ogg, *England in the Reigns of James II and William III* (Oxford, 1955), 1-8, 170-175, 265-271; Hume Brown, *History of Scotland* (Cambridge, 1911), II, 321-349; *Sir George Clark, The Later Stuarts, 1660-1714* (2nd ed., Oxford, 1955), 263-280.

Though the Covenanters of the southwest had suffered severely from religious persecution, few of the inhabitants of Lanarkshire, Ayrshire, and Dumfriesshire migrated to East Jersey. No ship left the Clyde for the province. The *Advertisement* of 1684, for example, directed interested persons to factors in Edinburgh, Montrose, Aberdeen, and Kelso, all on the eastern seaboard. The counties specifically mentioned are Aberdeen, Mearns (Kincardine), and Merse (Berwick). Of the 29 agents mentioned, more than half were owners of fractions of proprieties or whole shares, and most of them were local merchants. About one-half dozen, all friends of Robert Barclay, were Quakers. Those contemplating going to East Jersey in 1683 were persuaded more by the opportunity of bettering their lot rather than by the need of escaping from religious persecution.[2]

The first serious Scottish emigration was sponsored by the Scottish proprietors jointly. The leading entrepreneurs were Perth, Melfort, Barclay, Sonmans, Gordon of Cluny, Gawen Lawrie, Robert Burnet, who had purchased John Heywood's share, and Sir George Mackenzie, the lord register, who had purchased one quarter of Perth's share. In 1683 they chartered the *Exchange of Stockton*, James Peacock, master, which sailed from Aberdeen the last of August and arrived in East Jersey in mid-December. The cargo, in the charge of David Barclay, younger brother of the governor, was valued at £973. Of this amount £600 was in merchantable goods and the remainder in provisions, furnishings, and livestock for the use of the overseers. The *Exchange* carried 37 cows, 15 calves, 1 bull, 7 horses, 8 breeding sows, and provisions such as wheat and pork. With the exception of William Dockwra, all the participants were Scots. Burnet invested £151, Barclay, £100, Gordon and Lawrie as partners, £100, Sonmans, the Dutch-born Scottish merchant, £457, David Falconer, who later purchased a small fraction, £50 in goods. Even young David Barclay risked £10 in the enterprise. Following the death of Arent Sonmans in August 1683, Perth, Melfort, and Mackenzie jointly relieved the Sonmans heirs of £100 of their participation in the venture. The Twenty-Four Proprietors, then, were represented by roughly a third of their number.

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[2] The *Advertisement* is printed in George P. Insh, *Scottish Colonial Schemes, 1620-1686* (Glasgow, 1922), 233-237.

By the terms of the agreement, drawn up in Edinburgh in February, David Barclay was given a 10-acre lot in Perth Amboy for his services. The overseers, John Reid and John Hanton, were promised £25 annually, but each accepted as part payment 10-acre lots at Perth Amboy, each valued at £5. The indentured servants, in accordance with the proprietors' regulations of 1682, were granted 25 acres each at a quitrent of 2d. per acre, while skilled servants were granted 30 acres. The underwriters agreed at the expiration of four years to divide wheat, livestock, and other goods among the overseers and the indentured servants. Immovable effects such as houses and fences, after an evaluation by an impartial committee appointed by the governor and his council, would be sold and the proceeds divided likewise.[3]

The proprietors gave explicit instructions to David Barclay, his brother John, and Arthur Forbes to act as their agents. They directed that their one-fourth interest of the whole first dividend of 1,000 acres per propriety, amounting to 6,000 acres, be laid out at Chingeroras, on the south side of the Raritan opposite Perth Amboy. The overseers and indentured servants would be settled upon these lands immediately. They were told to seek an increase of the 1,000-acre dividend to 10,000 acres per propriety and have the Scottish proprietors' lands laid out in a block of 60,000 acres. This grandiose scheme never materialized. The agents were also instructed to obtain a fourth of the 150 ten-acre lots at Perth Amboy and 6 of the proprietors' 24 houses being constructed there, to dispose of as they saw fit. Since the Woodbridge seventh, which they had set apart for Perth Amboy, amounted to only 1,000 acres, they were asked to enlarge this to 1,500 by obtaining 300 acres from the Widow Carteret and purchasing 200 acres additional. They expressed an interest in a division of unappropriated lands in the Barnegat Bay area south of Shrewsbury. Their own surveyor, John Reid, would supervise all allocations of land. The two Barclays and Forbes were commissioned to act for the Scottish proprietors and to sit in the provincial council as their proxies. As we have seen, these agents never sat on the council, but the Scottish proprietors were represented later on the resident council of proprietors through their proxies.[4]

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[3] *N.J.A.*, I, 466-469.

The two principal Scottish expeditions of 1684 left for East Jersey during the summer, one from Aberdeen and Leith, the other from Montrose. The Montrose party comprised 130 passengers, 27 of whom were women, and 7 children. The voyage took only nine weeks from the coast of Ireland before Long Island was sighted, though contrary winds were encountered from time to time. The Leith party was composed of 160 passengers. Thanks to a strong following wind this passage was also made in nine weeks from Aberdeen to the Capes of Virginia. But the ship encountered a fearful storm on September 12 which almost caused her to founder. She limped into Hampton Roads on September 27 bereft of all but her lower yards. Her skipper, who needed to call at Bohemia Creek at the head of the Chesapeake to pick up a cargo of tobacco, was unable to proceed to New Jersey. The passengers divided; some made their way overland to Perth Amboy, while the other shipped out on two small sloops. Many arrived without any baggage, and none had more than half of the maximum allowance permitted by the sloops' masters.

Many of the new settlers remained in Perth Amboy, but those with indentured servants located on the proprietors' lands at Chingeroras, at Cedar Brook (Plainfield) at the foot of the Blue Hills (Watchung Mts.) and along the South River, a branch of the Raritan. The more affluent, some of whom were fractioners, built or purchased houses in Perth Amboy and settled their indentured servants on their outlying lands. A number were interested in the prospects for trade as well as in agriculture. Charles Gordon, among others, wrote that Perth Amboy had a bright future. Many of its 150 lots had been taken, and from twelve to fourteen houses were ready for use. Built of wood, the walls consisted of stout palisades, raised on end, and the roofs of cedar shingles. Stone was used to make chimneys, but masons were too few to build stone houses. David Mudie's house was exceptional. He was engaged in building a two-story, six-room structure, 32 ft. by 40 ft., with a cellar and garret. But most of the lotholders erected two- or three-room houses, placed an acre or two in fruit, and planted a vegetable garden. Mudie also erected a "great mill," with a wheel 30 feet in diameter, on which he hoped to clear £40 per annum upon an investment of £100. In addition to the houses, a governor's residence and a courthouse were being built. Benjamin Clark had opened a stationer's shop and offered books for sale. In 1685 George Keith, a minister, albeit a Quaker minister, arrived, though most of the Scots were staunch Calvinists. Keith, learned in mathematics, was soon highly regarded as a practical surveyor. Thomas Fullerton did not find the small town "boorish," stating that in close-by New York the inhabitants were "generally great spenders" and that there was "railing and gallanting enough."

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[4] "Unpublished Scots East Jersey Proprietors' Letters," *N.J.H.S. Proc.*, New Ser., VII (1922), 5-9.

The thoughts of many turned to commerce. James Johnstone wrote that Scottish goods would sell well in East Jersey, especially coarse cloth, linens, plaids, stockings, bedding, and blankets. Charles Gordon, more farseeing, believed that "a cabal of merchants" should be organized to establish a large trade with the West Indies, sending wheat, corn, beef, and pork and obtaining rum, molasses, sugar, and cotton. Perth Amboy, he thought, needed a malt house, a brewery, a bakery, and an establishment for curing and salting fish. He advised that a prospective merchant should have a capital of 5,000 Scottish marks of which four-fifths should be in goods and the remainder in cash and suggested that merchants should acquire lots in Perth Amboy and build their house-shops there. The new merchant would gain also because "country money," principally New York currency, was depreciated about 20 per cent.

All the immigrants testified that goods were plentiful and prices reasonable. Meat, venison, fowl, and fish were obtainable at all times. Bucks brought 5s. apiece or were peddled by the Indians at 2s. Turkeys were 6d. Anyone could obtain fresh meat with the possible exception of pork. A farmer stocking his land could purchase an ox for £5, a cow for £4, a hog for 20s., and a horse for £5 or £6. Wheat sold for 4s. per bushel, rye for 4s. 3d., and corn for 2s. 6d. Flax sold for 9d. per pound. John Cockburn, an indentured servant, advised his friends to bring leather with them since shoes sold for 5s. or 6s. per pair. Good cider was easily made and was the most popular drink. Newark was already famous for her cider.

Labor was at a premium in East Jersey. There was a great scarcity of skilled workers such as weavers, tailors, shoemakers, and masons. Experienced husbandmen and tradesmen, too were few in number. Even ordinary labor was hard to come by although a bushel of corn per diem was paid, the equivalent of 2s. 6d. in the market. In town the money wage was 2s. James Johnstone wrote that there were no poor in the province because work was so plentiful. In fact, jobs were so numerous, he stated, that men worked only half as hard as in Scotland.

The indentured servants, the men especially, were satisfied with their lot in East Jersey. Peter Watson thought that poor men lived better than in Scotland. Single men, after four years as indentured servants, could either take jobs of their own or obtain land at low rates. The hardest work was clearing land for crops. It took Watson and another servant three months to clear off five acres in Perth Amboy and plant corn, beans, and tobacco. Watson also complained that clothing was very expensive.

All the Scots spoke well of the soil, the drainage, and the natural resources of the colony. Most of the land was red marl with a rich, black mold cover. Trees were plentiful, but dense forests were rare. When the land was cleared and cultivated, clover tended to supplant the coarse grass and weeds. There was good hay, fresh and salt, for the stock. Fruit trees did well, especially apple, plum, and pear. Corn was usually planted the first year, and in hoeing the corn the weeds were destroyed and the soil prepared for wheat, rye, barley, and oats the following season. Corn reproduced itself two or three hundred fold; oats, twenty fold; and wheat, twenty to thirty fold. Anyone taking up a town lot was advised to bring seed grain with him and, if possible, a cow. Fractioners, with large holdings in the country, would need several servants, a good plow, from four to six oxen, and two horses. David Mudie, with David Violent, owned several hundred acres on the South River, about two and one-half hours by boat from Perth Amboy. Mudie believed that by investing £300 and bringing in seven or eight servants the value of the investment would be £1,500 in three years. Robert Hardy, whose tract lay nearer Perth Amboy, recommended that the owner should maintain a minimum of two servants on the land.

John Forbes, who settled at Cedar Brook with a number of others, held the common view that the land up to the Raritan and back from the river was the richest land. He wrote that much of the river land was sandy and barren and in addition was held by the old planters, whom the Scots gave the name of quitrenters. He intended to take up 400 to 500 acres, which he would work with two servants. Forbes, owning a one-tenth fraction was entitled to 1,000 acres of first dividend land. He planned to take up his second 500 acres further up the Raritan, to clear and improve that land, then sell it at a profit. At Cedar Brook he was planting 10 acres of corn after clearing the trees; the next year he would plant other grains. At present he was living in a hastily constructed wigwam, but he was planning to build a frame house. East Jersey, as good as the prospect seemed, was not for the idle; two or three years of hard work were needed to gain success.

In addition to Forbes, six others who came by way of Maryland settled at Cedar Brook. Among them were Charles Gordon, who also took up land for his brother Dr. John Gordon, Robert and Thomas Fullerton, James Johnstone, and Andrew Alexander. John Barclay, brother of Governor Barclay, also settled at Cedar Brook. Robert Fullerton boasted proudly that they were the first inland settlers in the province. Charles Gordon, writing to his brother, also asserted that the back lands were the most fertile. He advised him to bring household goods and provisions if he decided to come. Servants were indispensable for there was great expense in carting goods to the land, in clearing, and in fencing. One must not be dependent upon the old settlers, who preyed upon the newcomers. East Jersey was a good place for indentured servants; actually the clearing job was not too difficult, for much of it could be done with a stout hoe. James Johnstone also urged the need for servants and a cash reserve of about £40. He characterized the old inhabitants as "a most careless and infrugall People." Robert Fullerton wrote that the "quitrenters" of Elizabethtown, Piscataway, and Woodbridge consisted of two or three hundred families and that some of them were rude and malcontent. "They need something of austerity to make them complaisant," was the view of the frugal Scot.

Only a few Indians were encountered on this near frontier. Peter Watson regarded them as "a kind and loving people." The men hunted and the women planted corn. He remarked their love of strong drink and spoke of a sachem's request that intoxicated

Indians not be driven out of the farms on which they worked but that they be bound until they were sober. The Scots found the Indians useful on occasion. They were hired to cut timber and do other chores, and it was possible to contract with them to supply venison, deerskins, corn, and pork. The Indians, who migrated to the coast during the summer to live upon oysters and fish and to secure supplies of wampum, caused little or no trouble.

From the start the Scots implored the proprietors to send ministers. The Puritan minister at Newark was the only one active in the province. They believed it their duty to supply not only Perth Amboy but Elizabethtown, Woodbridge, and Piscataway. Actually Archibald Riddel, who came with the George Scot expedition in 1685, served at Woodbridge for a short period before returning to Scotland, but he was the only one. The Scottish Presbyterians made no dent on the prevailing Puritanism. James Johnstone described the old inhabitants as Protestants with a few Quakers and Anabaptists, and Peter Watson called them "a good religious people." Lacking ministers they met in their meeting houses on the Sabbath to read the Bible, pray, and sing psalms. Thomas Fullerton, on his own initiative, hoped to raise £60 or £70 per annum for the support of a minister at Cedar Brook. He himself had brought there nine indentured servants; his brother Robert, nine; Thomas Gordon, nine; James Johnstone, nine; James Campbell, eleven; and John Doby, three. It was thought that such a promising community might afford a minister, but the plan did not materialize.[5]

Before all the foregoing letters had been written, Gawen Lawrie had arrived in the province to succeed Rudyard as deputy governor. He visited Elizabethtown briefly on February 12, 1684, but spent most of his time until March 2 at Perth Amboy where he superintended the construction of the town in which he hoped soon to reside. In a first letter to the proprietors written on March 2 and in another to a friend dated March 26, Lawrie gave a good account of his impressions of the new capital and the province. He described the promising harbor at Perth Amboy, the plans for a quay, and the broad and deep Raritan leading far into the interior. One tract of 400 acres had already been divided into lots and half lots, 16 of which had been reserved for the Scots proprietors. Twenty available lots had already been taken up by others at 4d. per annum quitrent. Fifty Scots and Englishmen were employed building houses and a governor's mansion. All materials but nails were available. The houses were of wood, the chimneys of stone. Both houses and barns were plastered inside.

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[5] The settlers' letters upon which this account is based are published in Scot's *Model* and reprinted in their entirety in Whitehead, *East Jersey*, 410-472, and in part in Insh, *Scottish Colonial Schemes*, 237-277; other letters appear in "Unpublished Scots Letters," *N.J.H.S. Proc.*, n.s., VII, 4-12, 119-121.

Thirty thousand acres throughout the province that had been surveyed under the direction of Governor Carteret were now available to the proprietors. The Scots and "William Dockwra's people" comprised the best immigration in a decade. Dockwra was responsible for sending over at least 23 servants, indentured for four years, in the fall of 1684. Lawrie urged that more families and servants be sent. There was no poverty in East Jersey. Provisions of all kinds were plentiful, and the prices were low. To expedite trade he was opening a ferry across the Raritan to accommodate those going to Burlington and Philadelphia. A number of New York merchants had invested in plantations in East Jersey which had paid off handsomely since the surplus crops and livestock were readily marketed in New York. Since servants worked only a third as hard as in England, they were well off as a class. Tenants prospered also. They could rent land at from 6s. to 10s. per acre per annum if they gave half of the natural increase of the livestock to the landlord. Farm laborers, who were in short supply, were paid at the excellent rate of 2s. per day. Lawrie recommended that each proprietor place 10 persons on his land. Such an influx would have a wholesome effect, for it would put an end to the quarrels that had divided the province and make for a more balanced type of society.

Later in March 1685 David Barclay, Arthur Forbes, and Lawrie submitted a report based upon a questionnaire from the Scots proprietors.[6] Lawrie wrote that much of the information they desired was not available. For example, one did not know the number of acres in the province, the proportion of meadow or woodland, or the location of all the hills and mountains. But meadow lands were plentiful, and there were vast tracts free of woods. Also there were numerous outplantations, many of which maintained eight or ten indentured servants, twelve to thirty cows, and eight to ten oxen. Horses and swine were allowed to run wild. Sheep were kept in the villages since the wolves destroyed them. There was good profit to be had by improving the soil and in breeding stock. One bushel of wheat sowed one acre; two bushels of barley, an acre; two bushels of oats, one and one half acres; and one peck of corn, an acre. There was excellent land at Barnegat in southern Monmouth County but the fishing industry was confined to a few whalers. Fish were plentiful, yielding from one to two barrels a day, but there were no commercial fishermen. The Indians were inconsiderable in number. They resided far up in the country where they lived by hunting and planting a little corn. They were governed by "kings," and apparently had no religion. All of them were willing to sell their lands. The old inhabitants of New Jersey lived in villages and were mostly New Englanders. They were zealous in religion, and every town had erected a meeting place. The province afforded no system of education, but each of the towns attempted to maintain a school. Although there was a fine prospect of trade with the West Indies and Newfoundland, as yet no ship had been built in East Jersey. Samuel Groom had one on the ways at the time of his death, but it was never floated.

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[6] *ibid.*, 120-121.

The Scots proprietors in 1684 and 1685 attempted to obtain the approval of the authorities to transport prisoners to East Jersey. In August 1684 Lord Neil Campbell, suspect because of his family connections, was ordered under a bond of £5,000 to confine himself to the Edinburgh district. Thus restricted he applied for and received permission to migrate to New Jersey. Purchasing a one-fourth share from Sir George Mackenzie, he decided to transport others with him and develop his holdings. At his request he was granted permission to take with him as servants a number of political prisoners providing they were not traitors, rebels, or fugitives. The Scottish council agreed to release those who wished to go provided they furnished bail to sail on or before a certain date. Those transported by Neil Campbell including his son totaled 52, the largest master-servant group transported to East Jersey except that of George Scot a little later. Just after Neil departed, his brother Archibald, Earl of Argyle, led the rebellion for which he was summarily executed. Shortly after his arrival in East Jersey, Neil was chosen deputy governor, succeeding Lawrie, and served briefly before returning to Scotland.

Robert Barclay, in December 1684, endeavored to procure prisoners from the Scottish council. Perth and Mackenzie were in favor of granting the request, but Melfort, "no freind of thesse plantations," forbade it until the King's pleasure was known. Nothing daunted, Barclay and his associates, on the ground that a ship was about to leave Leith Roads bound for East Jersey, endeavored to obtain an allotment of prisoners who were being distributed by the council for transport to the colonies. Twenty-three from the Edinburgh district were allowed the Scottish proprietors, but there is no record of their having reached America. Barclay himself before the end of 1684 had sent out five servants, two of whom were indentured for terms of four years and three for terms of two years. Sir John and Sir Robert Gordon, Barclay relatives, also requested prisoners about this time, but there is no knowledge of the outcome of their petition. Perhaps the Barclay and Gordon groups came with George Scot's expedition, but it is strange that nothing more is heard of them.

George Scot of Pitlochie, author of the *Model of Government*, was the organizer of the most ambitious and at the same time the most tragic of the New Jersey expeditions. He chartered the *Henry and Francis* of Newcastle, a ship of 350 tons, Richard Hutton, master, to carry somewhat more than 100 settlers and indentured servants to East Jersey. The ship was scheduled to take on passengers at Leith, Montrose, Aberdeen, and Kirkwall in the Orkneys. Scot had agents in Ayr, Irvine, Kilmarnock, Glasgow, Stirling, Montrose, and Aberdeen. Again there was little response from the Covenanting southwest. As early as November 1684 Scot received permission from the council to transport 100 prisoners, and the following March he applied for their release in order that they might make preparations to sail in July. The council permitted him to visit prisons for the purpose of recruiting, but he was not allowed to approach heritors of above £100 income. Only three prisoners appealed to the council for permission to migrate. Scot was also disappointed at the small number of those wishing to accompany him on a voluntary basis. In August, with time running out, he implored the council to assist him on the ground that he had incurred large capital outlays. He was promised 50 from Edinburgh and 50 from

Dunnotar of a group of 177 who were destined for transport to Jamaica, but actually he obtained only 12. He complained that many of those offered him were too old and infirm to make good settlers. In August he was assigned 35 more, 23 from Leith and 10 from Edinburgh. Six were women. One contemporary characterized Scot's passengers as a mixture of political prisoners, persons distressed by poverty and debt, "whoores or prodigal wasters," and some holding "phaniticall principles and dissatisfied with the government."

The *Henry and Francis* left Leith Roads on September 5, 1685, and arrived at Perth Amboy on December 7. The voyage was horrible. A malignant fever carried by the prisoners swept through the ship killing between 60 and 70 of the passengers and crew. Both Scot and his wife died of the disease. Scot's daughter, Euphemia, later married John Johnstone, the Edinburgh apothecary to whom Scot had bequeathed the disposition of the prisoners. Some contemporaries state that there were 200 aboard the *Henry and Francis*, but this number seems somewhat large. When the plague-ridden ship landed, Johnstone tried to get the prisoners to volunteer to take four-year terms as indentured servants, but they refused. At court they cited their sufferings for conscience's sake, their banishment, and their maltreatment on the voyage and were set free. Some went to Newark, "a town where there was a minister settled." Very few remained in East Jersey after the Revolution of 1688.[7]

Following the debacle of the *Henry and Francis*, no further voyages were promoted either by the proprietors or any private undertaker. As mentioned before, the persecutions in Scotland tended to diminish. Emigration as such made no great impact upon the Scottish communities. Moreover, the Scottish proprietors were unwilling to sink more capital in the promotion, and, indeed, many lost interest in their proprieties and fractions. The pressure for land for prospective settlers was short-lived, if there had ever been any. The initial distribution of proprietors' lands on the Raritan, the South River, and Cedar Brook and, shortly after, at Wickatunk, more than satisfied any demand for land. Each of the Twenty-Four Proprietors had available by the end of 1687 more than 2,000 acres. There were no purchasers for this amount of land and few potential tenants. Nor was there any continuing migration into East Jersey. The trek from New England and Long Island had long since stopped, and even the natural increase was slow. There were losses to New York, especially through the opportunities afforded in New York City. Unhappily, too, there was practically no trade in East Jersey. Perth Amboy, despite its efforts to obtain recognition as a free port, furnished no market for the importers of goods. The East Jersey surplus of provisions and stock found their way to New York City to make up cargoes shipping from that port.

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[7] Insh, *Scottish Colonial Schemes*, 173-175; Sir John Lauder of Fountainhall, *Historical Notices of Scottish Affairs* (Edinburgh, 1848), 586, 664; Robert Wodrow, *History of the Sufferings of the Church of Scotland* (Edinburgh, 1830), IV, 216-223 *passim*, 331-334; *N.J.A.*, XXI, 62, 85.

CHAPTER X

Governor Lawrie's Administration

GAWEN LAWRIE, though not a native, was of Scottish antecedents. He had lived in London for many years as a merchant and was identified with the Society of Friends. In 1676 he and two others were selected by the Meeting for Sufferings to correspond with Scottish Quakers regarding the extent of the persecutions there. From 1675 to 1683 he had served as a Byllynge Trustee for West Jersey and, at one time, owned two whole West Jersey proprieties. He became involved with East Jersey in 1682 as a trustee of the propriety purchased by Arent Sonmans for his children. Later in the year, at the invitation of the Scottish proprietors, he had composed a long advisory memorandum on colonization. Having thus won the esteem of Robert Barclay, Lawrie was offered and accepted the deputy governorship of East Jersey. Undoubtedly Barclay and his colleagues believed that this appointment would be in keeping with the Scots' newly acquired interest in the province. To qualify himself for the post, Lawrie purchased a half share from Robert Gordon of Cluny and thus became his partner.

Governor Lawrie's commission was signed in July 1683 by sixteen English proprietors at London and by Gordon and Burnet for the Scottish proprietors. His term was limited to seven years, pending good behavior. Lawrie took with him blank commissions for the offices of receiver general and surveyor general, retaining the former with its burdensome duties of collecting quitrents and proceeds from the sale of lands. Groom, already removed by Rudyard as surveyor general, had been succeeded by his deputy, Philip Wells, but Lawrie proceeded to issue a commission for the office to William Haige, his son-in-law, who accompanied him on the voyage. Haige, also a Friend, was a business associate of Lawrie's and had formerly owned a West Jersey propriety that he sold to Penn.

Lawrie's instructions, also dated July 1683, were far more comprehensive than those of his predecessor. He was directed to observe the navigation and trade acts, to maintain friendly terms with the neighboring colonies, and especially not to irritate New York by luring her inhabitants to East Jersey. He was told, also, to treat the inhabitants of the province kindly and encourage them to respect the proprietors and to maintain good relations with the Indians. He was requested to see that the last instructions to Rudyard were executed.

With respect to particulars, Lawrie must insist that the proprietors receive their seventh of the lands when new town corporations were organized. Of the existing towns, only Woodbridge had fulfilled the terms of the Concessions. In order that individual proprietors would receive holdings of reasonable size, Lawrie was asked to assign the sevenths of towns to groups of only eight proprietors, a third of the total number. Since Rudyard had neglected to lay out the first dividend of 10,000 acres for each proprietor, Lawrie was instructed to do this immediately. Extensive tracts purchased from the natives would be allotted to only three proprietors per tract. The total of 240,000 acres thus purchased should be paid for from the common fund and additional increments of land should be obtained from the income on quitrents. Each proprietor would be assigned 2,000 acres as quickly as possible, but preference should be given to those who had already sent over servants, settlers, and goods. For the general good, the division line with West Jersey should be surveyed and a road laid out between Perth Amboy and Burlington, the West Jersey capital.

All lands must be taken up in accordance with the Concessions and be laid out by the surveyor general on order of the governor and his council. Old patents should be examined for overplus and in the case of honest error the surveyor general should make reasonable allowances. Where the quitrents were in arrears and the patentee unable to pay, a portion of the lands should be returned to the proprietors. The proprietors were prepared to be generous with the landholders and the surveyor general was instructed not to cavil over small differences. A survey should be made of the lands taken up, of the value of the quitrents, of the rents due and owing, of special agreements entered upon with patentees, and of the present standing of the proprietors' sevenths.

Governor Lawrie was also directed to examine the validity of the Nicolls' patents and the claims to a right of government asserted with such patents. If Nicolls had the power to govern, surely it was in accordance with some law. Certainly he had not intended to divide the government of the Duke's propriety. If the property claims proved small, the inhabitants should be favored, but if considerable loss was entailed, the matter should be laid before the proprietors. The Fundamental Constitutions, which were being sent over, should be explained to the inhabitants and adopted by the general assembly. Since the Concessions had specified that the assembly provide for the maintenance of the governor and the charges of the government, Lawrie was instructed to bring this about "with all the Dexterity he can."

The proprietors were enthusiastic about building a capital at Ambo Point, named Perth in honor of the premier Scottish proprietor. The model for the city and its environs, in final revision, was sent over in March 1684. The proprietors urged that careful attention be given the execution of the plan, emphasizing that the quay and the market be conveniently located, that the streets be broad, that the houses not crowd upon one another, and that the yards be deep. The burden of initiating the building of Perth Amboy fell to Lawrie, who spent a whole month there before taking up residence in Elizabethtown. Twenty-four houses would be erected at once at a cost not to exceed £30 sterling per dwelling. The resident proprietors would be given their houses immediately, while those of absentee proprietors could be sold to persons needing housing. Surplus houses might be rented and the income applied to the proprietors' account, but the leasing arrangements could be extinguished on six months' notice in favor of an arriving proprietor or his agent. A commodious house would be built for the governor from the common fund. Each proprietor would receive also six 10-acre lots within the township. Lots apportioned for the general use, such as the market, the wharf, the town house, and the prison, would be subtracted from the number available to the proprietors.

Lawrie received a variety of other instructions. He was to obtain an accounting of the cargo worth £750 sent over earlier in Samuel

Groom's custody. Lawrie was ordered also to take possession of the proprietors' house, orchard, and grounds in Elizabethtown, which had been occupied by Rudyard, and to clear up all "the frivolous pretences" of the Widow Carteret, who claimed the property by inheritance. In 1685 Elizabeth Carteret became the wife of the affluent Richard Townley of New York, who took up residence at Elizabethtown. In May 1685 Lawrie appointed Townley a member of the bench of the Court of Common Right, and in October 1686 Lawrie's successor, Lord Neil Campbell, named him to the council.

Lawrie was also directed to divide 6,000 acres lying at the mouth of Chingeroras Creek, opposite Perth Amboy, into three parts and give the first choice to those who came under the sponsorship of the Scottish proprietors. Others prepared to settle in the province would be given their pick of the remaining lands when they or their agents appeared. Lawrie was instructed, finally, to inform the assembly that the confirmation of the laws adopted by the Rudyard assembly was withheld until the Fundamental Constitutions were adopted. The proprietors did not wish a multiplicity of laws where the common law of England would suffice.[1]

During his three-year term Lawrie received frequent directives. The proprietors endeavored to keep a close rein upon him, with indifferent success. In December 1683 the Fundamental Constitutions were made public. All settlers whose patents were approved by Lawrie and the resident proprietors would be admitted to their privileges. The lands they held must agree with the patents and surveys, their patents must appear in "the new register," and their arrears and current rents must be paid up. The proprietors insisted that their sevenths be set aside before the inhabitants of the several townships were permitted to participate in the blessings of the new constitution, and that the assembly, in accordance with the Concessions, agree to defray the public charges. Obstinate and refractory persons would be dealt with as violators of the Concessions, but those seeking "an honest compliance" would be treated justly. The proprietors would withhold the selling of quitrents to settlers until the matter had been further examined.

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[1] *N.J.A.*, I, 423-434, 474; XIII, 142, 161.

Governor Rudyard and his surveyor general, Groom, had fallen out over the method of distributing lands. Groom, adhering strictly to the Concessions, had insisted upon reserving a seventh of the lands to the proprietors, but Rudyard and his council, eager to attract settlers, had overlooked this stipulation. Groom's conduct was upheld by Thomas Warne the first permanent resident proprietor. Nevertheless Rudyard had removed Groom, thus furnishing one reason for his replacement by Lawrie. In their letter of January 1684 addressed to Lawrie and his council, the proprietors praised Groom's fidelity to duty: for discovering and surveying appropriate lands, for clearing them of Indian claims amicably, and for refusing to accommodate sundry persons with lands to the proprietors' prejudice. Though acknowledging that Rudyard himself had done good service "in resisting and curbing tumultuous Spirits," they disapproved of his dismissing Groom and recommended that he be re-employed. They, therefore, declared all patents not surveyed by Groom invalid and stated that they never had nor never would agree that the deputy governor and council could dispose of lands on whatever terms or to whom they chose. As to Rudyard's contention that it was a detriment not to make land available for settlers as the neighboring provinces had done, they replied that they had ordered 10,000 acres per propriety laid out and that when this was done enough land would be available for all. Groom died early in 1684. His son, Samuel, did not wish to live in New Jersey and sold his father's propriety to William Dockwra of London.

Turning to the Scottish proprietors, who by now had increased their number to twelve and their interest to eight full shares, Lawrie was informed that they would develop their lands using their own agents. All newly surveyed tracts would henceforth be divided into two parts, one of which would be designated as Scots' land. The Scots proprietors had in August 1683 sent from Aberdeen numerous servants and a cargo worth £750. At the beginning of 1684 the Scottish proprietors were Perth, Melfort, Robert Barclay, Robert Gordon of Cluny, Lawrie, Arent Sonmans' heirs, David Barclay, Sir John Gordon, John Hancock, who was the brother of the Widow Sonmans, William Dockwra, the only English participant, Robert Burnet, and Bartholomew Gibson. Perth and Barclay owned whole shares, the Sonmans' heirs at this time three whole shares, and all the others but Gibson a half share each. Gibson, "His Majesty's forger," owned only a proprietor's lot in Perth Amboy, though he intended, presumably, taking up a fraction. But he moved to New York shortly after his arrival. The Scottish proprietors agreed not to sell off their lands at 2d. per acre, or even for 4d., but to develop them through a system of overseers and indentured servants.[2]

In their letter of January 1684 the proprietors also announced that large tracts would be assigned alternately to the English and Scottish groups but that no tract larger than 48,000 acres would be allotted. No individual proprietor would be vested with more than 2,000 acres, which at this time was deemed ample. This system of alternating would be observed in Perth Amboy. Lots there should never be offered at a reduced price since the proprietors wished their venture to maintain an excellent reputation. Lawrie was directed to introduce weekly markets and fairs and insist that the town be used as the sole port of export. A charter, with all necessary privileges and jurisdictions, should be granted the town corporation as an incentive for people to settle there. The policy of Indian purchase should continue despite Rudyard's claim that these purchases already exceeded the value of the cargo. Lawrie, with the consent of the resident proprietors, should draw on the joint account and not undertake Indian purchases for individual proprietors. A map showing all the subdivisions and their owners should be prepared and its availability would heighten public interest. The proprietors closed by admonishing that the deputy governor and the resident proprietors should follow their instructions regarding the collection of quitrents and other matters. They then confirmed the acts of the Rudyard assembly.

On February 29, 1684, the proprietors made an agreement concerning the taking up of lands. They stipulated that any fractioner (owner of less than a whole share) going over or sending servants could obtain some land due him on the first dividend of 10,000 acres. Those owning less than a one-twentieth share would be given their full amounts, but those owning larger fractions would obtain, for the present, no more than 500 acres. Survey should proceed in an orderly fashion, to the end of attaining compact rather than diffused settlement. Proprietors, large and small, should be given every encouragement to settle and improve their land; those unwilling to do so must dispose of them to those who were ready. Those unable to settle their lands should wait upon a later dividend.

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[2] *ibid.*, I, 443-446, 448, 451; XXI, 58, 67, 68.

The proprietors then announced that since full information had now been received from Rudyard and Groom, they were sending over one of their number, Gawen Lawrie, as deputy governor, to put things straight. Troubled in learning that there were dissatisfied persons whose designs "did quickly appear in seeking to subvert our just Interest, that they might advance their own unwarrantable Pretences," they would hereafter keep a close watch on their affairs. A clear-cut demonstration would encourage the more honest and sincere, and those conniving to possess lands by unreasonable claims would soon realize their mistake. Those propagating pretenses intended to weaken the proprietors' title to lands could not be regarded as friends of the colony. The proprietors would curtail such claims to the end that the settlers would rest assured that their rights and privileges were being protected. They expected submission to their just rights and to the King's letter of November 23, 1683, commanding the inhabitants to yield obedience. They had considered fully the representations of the settlers to Deputy Governor Rudyard and hoped that by now their wishes had been answered in what related to the oppressions of the Carteret government. But the inhabitants must understand that they had acquired no right of land or government through prior purchase from the Indians.

Fearing that the first dividend would be insufficient to care for all the small purchasers en route to America, the proprietors instructed Lawrie and the resident proprietors sitting on the council to seat purchasers immediately on their lands. The resident proprietors, for the first time singled out as a group, were soon to be vested with the sole right to act for the proprietors in all matters pertaining to land. Moreover, if any man on arrival wished to increase his purchase up to 500 acres, the governor might make up the difference from the unallocated lands of the proprietor from whom he made the purchase. If that proprietor's land was exhausted, another proprietor's land could be drawn upon. Any proprietor's deficit would be made up out of the next dividend. Additional lands should be laid out contiguous to the purchaser's original holding. No small purchaser might have additional land until his first 500 acres was under cultivation. Actually the governor and his council acted slowly. Though the first 1,000 acres of the first dividend was distributed late in March 1683, the second 1,000 acres was not forthcoming until August 1684. Again the proprietors insisted that every fractioner receive promptly the land he was entitled to both in Perth Amboy and at Chingeroras.[3]

In August 1684 the proprietors sent another directive addressed to Lawrie and the resident proprietors in care of George Keith of Aberdeen, surveyor general designate, who came over on the *Blossom.* (Keith later became famous as the Quaker apostate who threw Pennsylvania and the Jerseys into a great turmoil.) This order vested the resident proprietors with the right to act for the proprietors in land matters and soon—in April 1685—they were popularly known as the Board of Proprietors of East New Jersey. Including Lawrie, there were now fourteen designated resident proprietors: Thomas Warne, owner of a share; Lord Minevard (David Toshard), who had bought a quarter share from Perth and was designated as proxy for Perth and Sir George Mackenzie (Viscount Tarbat); John Campbell with an eighth share, "partner" and proxy for Lord John Drummond (Viscount Melfort); George Willocks, proxy for Robert Gordon of Cluny; Robert and Thomas Fullerton, David Mudie, and James Johnstone, proxies respectively for Hart, Barker, Plumsted and Thomas Cox; and John and David Barclay, Arthur Forbes, Thomas Gordon, and Captain Patrick Macgregor, owners of fractions. Macgregor, a friend of Campbell's, soon moved to New York. Nine members would constitute a quorum, and decisions would be reached by a majority of those present.[4]

The instructions of August 1684 had set up a new agency in the province—a body of land commissioners consisting of resident proprietors. With its organization on April 9, 1685, it was formally known as the Board of Proprietors of the Eastern Division of New Jersey. The proprietors bestowed important powers upon these local commissioners: power to approve acts of the general assembly until reviewed by the proprietors themselves; power to settle matters at issue between the proprietors and the inhabitants, such as pretenses to land, arrears of quitrents, and the validity of patents; power to dispose of building lots and lands at Perth Amboy not previously taken up by individual proprietors; power to purchase lands from the Indians; power to rent proprietors' lands in anticipation of the migration from Scotland; and power to determine the boundary lines with West Jersey and New York. The resident proprietors were also instructed to pay Rudyard the sum of £180, from the sale of lands and quitrent receipts for his services as governor.[5]

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[3] *ibid.*, I, 438-441, 446-457 *passim*, 470-474; XIII, 49.

[4] *ibid.*, I, 460; E. B. O'Callaghan, ed., *Documents Relative to the Colonial History of the State of New York* (Albany, 1853-1887), III, 395 (hereafter cited as *N.Y.C.D.*).

In November 1684 Lawrie and the resident proprietors and the proprietors' proxies were charged specifically to bring to an end all controversies with the Navesink towns, Elizabethtown, and any others concerning pretended titles to lands. The proprietors declared that they would not enter into agreements with those making claims under the Nicolls patents or with those challenging the patents of Governor Carteret, for to do so would be an affront to the government of the province. They again forbade the commutation of quitrents. Full power was given the resident proprietors, with small exception, to approve all laws adopted during the next three years. Lawrie was directed to take up residence in Perth Amboy and to convene meetings of the council, the assembly, and the Court of Common Right in that place.

Since misunderstanding had arisen regarding the availability of lands, the proprietors announced that there should be no restrictions about settling at Chingeroras or elsewhere. Those bringing servants would be entitled to their headlands until March 1685, and the servants themselves would be given lands as soon as their masters had certified that they had fulfilled the terms of their indentures. Since the quitrents on headlands had been announced in the promotion literature as 2d. per acre instead of 1d. as intended, this error was corrected. No patent, henceforth, was valid unless signed by the deputy governor and council, as formerly, and by five resident proprietors or proprietors' proxies. This method of setting out lands would continue until the Fundamental Constitutions were adopted. Lawrie was directed to collect the proprietors' assessments for the development of the province from all the resident members. To date these levies were as follows: £10 voted in June 1683, £5 voted in January 1684, £5 voted in July 1684, and £10 voted in October 1684. Another assessment of £10 was levied in June 1685. Thus these entrepreneurs had advanced £960 for the development of the province in addition to underwriting several cargoes on a joint-stock basis.[6]

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[5] *N.J.A.*, I, 459-462.

To clarify their dealings the proprietors in March 1685 confirmed a list of all directives and orders preceding the date of Lawrie's commission. Such instruments, henceforth, must be attested by five owners of full shares including Governor Barclay, one Scottish proprietor, and William Dockwra, keeper of the seal, who represented the English proprietors. Since there was no money available for Dockwra's services as secretary, the proprietors voted him 1,000 acres of land. In writing the East Jersey commissioners asking for a patent he stated that had he not become enmeshed in the undertaking, he would not have undertaken this service for 2,000 acres more.[7]

In April 1685, fifteen months after Lawrie's arrival, the resident proprietors and the proxies began to meet with the deputy governor separately from the council. At the first meeting of the Board, Lawrie, Rudyard, Warne, Campbell, Mudie, Johnstone, the Fullertons, John Barclay, and Thomas Gordon were in attendance. All but Rudyard, Warne, and Lawrie were Scots. Thomas Gordon had arrived in East Jersey in the fall of 1684 with his brother, Charles. Each had purchased a one-fourth share from Governor Barclay. Charles returned to Scotland in 1687, but Thomas like John Barclay was to hold many offices and act as agent and proxy for a number of proprietors. He, too, served on the Board throughout the proprietary period and was a signer of the surrender in 1702. George Willocks first attended the Board meetings in July 1685 and continued until Hamilton's second term in 1692. He returned to Scotland for a period of years but came again in December 1697 as quitrent receiver for the proprietors. He married a daughter of Governor Rudyard, the widow Margaret Winder, and resided in Perth Amboy until his death in 1729. He was prominent politically during his second period of residence. With the addition of Willocks and the simultaneous retirement of Rudyard, who moved to Barbados, the Board remained intact for many years.

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[6] *ibid.*, 497.

[7] *ibid.*, 486-490.

The proprietors in July 1685 again listed the names of "the Commissioners concerned in the business of Lands." These included, besides Lawrie, resident proprietors Warne, David Barclay, and Thomas Gordon. Lawrie acted as proxy for Dockwra, and David Barclay for Governor Barclay. Campbell was proxy for Melfort, Robert Fullerton for Hart, Thomas Fullerton for Barker, Mudie for Plumsted, Johnstone for Thomas Cox, and Willocks for Robert Gordon. John Berry was proxy for Penn but never sat with the Board. At this time the number necessary for a quorum was reduced to five.[8]

The proprietors, after taking into consideration the methods of land distribution in neighboring Pennsylvania and New York, amended their regulations. Henceforth their lands could be purchased through the commissioners and the proceeds would be paid to the receiver general for the use of the proprietors. Lawrie, the deputy governor, was the first incumbent in this office under the Twenty-Four Proprietors. In October 1687 he was succeeded by the under receiver, his son-in-law, William Haige. It was also announced that lands could not be sold under £10 per 100 acres with a quitrent of 6d. per 100 acres or leased for less than 2d. per acre. Again it was stated that purchasers were required to settle a family of three on each tract of 500 acres within two years of the issuance of the patent or the lease. No one might buy or lease more than 1,000 acres on one site. The commissioners were authorized to sell or lease at a higher rate providing such arrangements did not prejudice the value of the adjoining tracts.

The proprietor of a full share or half share, on application to the governor and commissioners, would have 1,000 acres surveyed for him, and each lesser proprietor, 500 acres. When a total of 10,000 acres had been charged against a share, the proprietor must wait, three years if necessary, until the other proprietors had used up their dividends. Then a second division of 10,000 per proprietor would be declared. It was reasserted that a proprietor must hold at least a one-fourth share to participate in the right of government. Only in this way could this right be sustained and the essential nature of a propriety not be destroyed. This provision was also embodied in the Fundamental Constitutions.

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[8] *ibid.*, 499.

In order to assure orderly and compact settlement, the proprietors instructed the commissioners to lay out townships of from 5,000 to 10,000 acres so that they and other purchasers might have access to land without delay. When a tract as large as 24,000 acres was discovered, as at Barnegat, it should be divided into 24 parts. Those proprietors able to arrange for occupancy would be given first choice, but if too many applied the distribution would be by lot. The commissioners were authorized to rent farms not exceeding 50 acres near the chief places of settlement. If within seven years a proprietor made no effort to settle his lands, any proprietor prepared to meet the conditions of settlement might take up these lands. The proprietors further specified that when a large tract of excellent quality became available, it must be reserved to the joint interest of all the proprietors. But if it were too small for division into 24 parts, its value would be assessed and a decision taken as to whether it should be priced at two, three, or four times as much as average land. It would then go to the proprietor making the best offer. This method should have been followed, the proprietors charged, in the case of certain lands at Chingeroras Creek taken up by Rudyard and Lawrie, both of whom had obtained tracts of 1,000 acres. The proprietors also ordered that all assessments, which now totaled £40, should be paid and that no land be surveyed for those who were in arrears. These regulations were ordered read in the council and posted at Perth Amboy town house and at each county seat.[9]

Deputy Governor Lawrie did not present his commission to the council until February 28, 1684. The council members were sworn in at the same meeting. In addition to Rudyard, now secretary and register, the council included Lewis Morris of Shrewsbury, John Berry of Bergen, William Sandford of New Barbados, Benjamin Price of Elizabethtown, and four new members, Richard Hartshorne of Middletown, Samuel Dennis of Woodbridge, Henry Lyon of Elizabethtown, and Thomas Codrington of Raritan (Rackawackhacca). Hartshorne, Dennis, and Lyon were prominent members of their respective communities, and all had served as representatives in the Rudyard assembly of 1683. Codrington, a merchant of New York, moved to Woodbridge early in 1683, and with John Palmer, John Royce, and John White had formed the Raritan Company and purchased a large tract of land on the north side of the river between Bound Brook and the Millstone. After several years Codrington's holdings were increased to several thousand acres. John Palmer was now in New York in public office, and Lawrence Andress was retired from the council for poor attendance. The council was enlarged from six to eight members in order to assure a good attendance since Morris was frequently detained in New York on business. There was little change in the council during Lawrie's term. Isaac Kingsland was added in November 1684 since Hartshorne, who became speaker of the assembly, never attended a meeting.[10]

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[9] *ibid.*, 492-500.

The forty-four laws of the Rudyard assembly were approved by Lawrie on March 1, 1684, with one exception—that debarring Henry Greenland from office. Lawrie vetoed the Greenland act because Greenland had not been convicted of the charges against him. The resident proprietors in November ratified the laws and, notwithstanding the failure of the assembly to do so, exempted the Quakers, who would not bear arms, from the distress levied upon defaulters from military service.

Following his instructions of August and November 1684 to end all disputes between the proprietors and the inhabitants as to lands and quitrent arrears, Lawrie undertook to negotiate with the towns one by one. Before these matters were consummated two years had elapsed, and as a consequence no assembly was convened until April 1686.[11] Lawrie's difficulties are described in his own recital, "A Brief Account of the Severall treaties between the Governour of East New Jersey and the Inhabitants thereof Concern—their quit rents and arriers and colonel Nicholas [sic] Pattent for Land." Lawrie wrote his apologia "to clear me from these foul mouthed slanders that proceeds from murderous spirits in the dark behind my back, who dare not appear to justify me before my face." His "Account" alters the view that his policy was negative and that "he escaped conflict by not insisting upon the proprietary claims." The earlier crises with Carteret, the strife leading to the sudden dissolution of the 1681 assembly, and the bitter quarrels of Rudyard with the assembly of May 1682, taken together with Lawrie's own account of the troubles, can lead only to the conclusion that East Jersey was on the verge of rebellion during the whole period from 1672 until her absorption into the Dominion of New England in 1688.[12]

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[10] *ibid.*, XXI, 53, 54, 58; XIII, 136.

[11] Leaming and Spicer, 196, 199, 281; *N.J.A.*, I, 461.

In 1684 the situation with respect to the towns was as follows: all, with the exception of Bergen, claimed exemption from the payment of quitrents on the ground that their Nicolls patents or their Indian titles were superior to the Berkeley-Carteret grant. Many individuals, both in and out of the towns, had not patented their lands, despite warnings by Sir George Carteret and, after 1682, by the Twenty-Four Proprietors. They thus avoided having their names listed on the quitrent rolls. Moreover, the Navesink towns of Middletown and Shrewsbury claimed governmental powers under their Nicolls patents, which in their view took precedence over the Concessions of 1665. These "pretended privileges" included the right to make their own laws and elect their own officers. Although such claims had been denied by Sir George, who had been supported by King Charles himself, Lawrie like his predecessors was called upon to combat them. The Navesink towns stubbornly clung to the Duke's laws of 1665, which had been promulgated by Nicolls. These laws had allowed liberal privileges of local government, besides validating all Indian purchases made with Nicolls' consent. Neither Carteret nor Rudyard nor Lawrie seemed to have any knowledge of the Duke's laws and had no patience with the towns when they were alluded to.

Lawrie was expected to achieve what others had failed to accomplish over a score of years, to pacify the six towns. He was instructed to secure their unquestioned acknowledgment of the right of government and soil in the proprietors. He must somehow persuade them that their claims of self-government under the Nicolls patents had been superseded by the Duke's grant to the proprietors; that all prior patents, Nicolls or Indian, were invalid unless confirmed; and that all claimants must pay their established quitrents, first due in 1670, and the arrears. This was a large order, for in former times the towns had yielded only when forced to do so and had on every favorable occasion reverted to their pretended rights and privileges.

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[12] Alexander Papers, box 43, "East and West Jersey Proprietors," 5 pp. double folio size, New York Hist. Soc. The recital of Lawrie's negotiations with the towns is based upon this account. The "Brief Account" is printed, with an introduction by John E. Pomfret in *N.J.H.S. Proc.*, new ser., LXXV (April 1957), 98-111, and an article by the author about it is in *The William and Mary Quarterly*, XIV (July 1957), 344-347; Tanner, *Province of New Jersey*, 90-91.

Hardly had Lawrie begun negotiations with the towns than he became embroiled in a bitter quarrel with John Berry of Bergen, perhaps the most prominent "old settler" in the province. As we have seen, Berry became a council member in 1669 and was designated as deputy governor when Philip Carteret went to England during the rebellion of 1672. After the Dutch reconquest he was appointed to the council both by Rudyard and by Lawrie himself. In short he had enjoyed the full confidence of the proprietary government since 1669.

In 1669 Berry had received a patent for a large plantation at New Barbados within the jurisdiction of Newark township, and he held other lands in nearby Bergen where he resided. Well aware of the deputy governor's instructions concerning the collection of quitrents, current as well as in arrears, Berry was determined to avoid payment. In August 1684 Berry and Dennis, council members, bluntly asked the governor whether the act establishing the Court of Common Right had ever been confirmed by the proprietors, as required by the Concessions. Dennis was a member of the court, and Berry himself had served on the bench as late as May. Lawrie showed them the proprietors' confirmation which would not expire until December and believed them satisfied. In turn he demanded that Berry settle for his quitrents, none of which had ever been paid. Berry, angered, not only refused but again questioned the governor about the legality of the court—in essence a challenge of the proprietary powers. When Lawrie told him he would proceed against him as the law directed, he stated that he would defend himself as best he could.[13]

In October 1684 Lawrie, who presided over the court, sent Berry a summons to show cause why his rents were not paid. On November 11 Berry appeared in court and, pointedly refraining from removing his hat, publicly repudiated the court's authority. This exhibition caused great alarm, wrote Lawrie, for if the keeping of the court was illegal, no courts could be held until the court establishment acts were re-enacted by the assembly. Berry steadfastly refused to enter a defense in the case which the proprietors had instigated against him. The justices forthwith informed the deputy governor that if Berry's defiance was condoned they would not sit on the bench. Lawrie, a deliberate man, took no action beyond summoning Berry to appear at the next session. On November 27 the court fined Berry £10 for contempt, though some on the bench urged a sum of twice that amount, and bound him to good behavior for a year. Berry was again admonished to enter his defense, but again he refused. The sheriff of Bergen County was sent an order to execute the fine, but, according to Lawrie, it was never served and never paid. Berry was finally imprisoned in February 1685 for not advancing the required bond of £100, an enormous amount, as security for good behavior. Lawrie was convinced that Berry's attitude was responsible for the difficulties he was experiencing with the towns. They were waiting, he believed, to learn the outcome of Berry's case before deciding to surrender their own pretensions.[14]

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[13] Whitehead, *East Jersey*, 55, 65, 69, 71, 74, 83, 127, 132; Edsall, *Jour. of Court of Common Right*, 23-25.

The Board backed Lawrie to the hilt. On April 10, when only two days old, the Board resolved to proceed by writs of *scire facias* as a means of collecting quitrent arrears, a procedure that seemed preferable, in the light of popular opposition, to writs of distraint and the subsequent hazards of replevin. This writ, which Lawrie had employed in his first summons to Berry, "compelled a person against whom a judgment had been entered to appear and show cause why the judgment should not be revived and execution entered upon it. In response to the writ . . . the defendant was required to plead, and the matter came before the court for determination." The Board also resolved that all judgments would be promptly served and that there would be no abatement of quitrents either for persons or town corporations. On May 15 it ordered a writ of *scire facias* against Berry. The Board had taken full charge "of matters pertaining to land."

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[14] *ibid.*, 187, 188, 191. The fine was levied on Nov. 27, 1684, not in Feb. 1685 as Lawrie records.

With pressure mounting Berry submitted a plea to which the Board promptly entered a demurrer. When the demurrer was to be argued, in June, Berry obtained a stay on the ground that his counsel was unable to be present. Two weeks later, however, he offered to come to an agreement, but not until September 11 did he appear and submit his reasons for not paying quitrents. He argued, first, that he had petitioned the Carterets for an abatement but the matter had never been settled; secondly, that the Indians had retained to their own use fully half the lands; and, finally, a third of the tract had since been sold to persons who were now paying quitrents. He held that it was unreasonable that he should pay rent on the whole of the New Barbados tract.

The Board ruled that Berry and Lawrie should effect a settlement and submit it to them for ratification. Lawrie estimated that Berry owed £84 on New Barbados and £32 10s. on lands in Bergen County. Then the Board, "in consideration of his public services in this province," commuted the £84 to £50 and the £32 10s. to £20. Berry promised to pay his arrears at the rate of one third per year. He was well pleased with the outcome, wrote Lawrie. He gave his bond for payment, whereupon the Board instructed Lawrie to have the surveyor run his line in order to qualify him for a proper proprietary patent. It is not surprising to discover, however, that only a year later the hotheaded and litigious Berry, "wherein he inclines to fall from his agreement," appealed to the proprietors in England for a modification. The Board at once prepared a rebuttal to his pretensions and authorized Lawrie to transmit it, if necessary to the proprietors. This action seems to have ended the matter. Berry returned to the council in April 1686 and resumed his seat on the court a year later.[15]

The uproar created by Berry seriously hindered Lawrie's efforts in dealing with the towns. In July 1684, just before Berry's "great contempt," the Quaker Richard Hartshorne appeared before Lawrie with five others from Middletown and Shrewsbury. They demanded that the inhabitants retain the privileges accorded them under the Monmouth patent of 1665. They argued that the settlers, in accordance with the Duke's laws, had been granted the right to elect from five to seven persons "to make such peculiar Laws and Constitutions amongst the Inhabitants for the better and more orderly governing of them," elect their own officers, hold petty courts, and enjoy "free Liberty of Conscience without any Molestation whatsoever in the way of worship."

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[15] *The Minutes of the Board of Proprietors of the Eastern Division of New Jersey from 1685 to 1705* (Perth Amboy, 1949) with an introductory essay by George J. Miller; hereafter cited as *M.P.E.J.*, 56, 58, 89-91, 132, 133; Edsall, *Jour. of Court of Common Right*, 57-58, for comment on *scire facias*, 191, 194, 195, 196, 201. In March 1687 the Board resorted again to distress (*ibid.*, 103).

As we have seen, the "legislature of Navesink" had met at Portland Point in June 1667 and for some years thereafter to enact laws; and the freeholders of Middletown and Shrewsbury had held town meetings for the regulation of local government. Moreover, the deputies of Middletown and Shrewsbury were disqualified from sitting in the assembly of 1668 for insisting upon their pretenses. Also, for fear of jeopardizing their patents, these towns had refused to pay the £5 per annum tax or to take out proprietary patents for their township lands. Though the Monmouth patent exempted the inhabitants from paying quitrents for seven years, this exemption expired in 1672. But by refusing to turn in warrants of survey for the lands they held, they had avoided having their names listed upon the quitrent rolls. The negotiations with Lawrie, then, involved the taking out of proprietary patents and the payment of quitrent arrears as well as the maintenance of ancient rights and privileges.

Hartshorne and his associates requested that the inhabitants have liberty to make their own "prudentiall Laws," elect their own officers, and be given assurances that they would not have to contribute to the support of a minister. In addition they demanded unchallenged possession of 4,000 acres of township lands laid out for them by Carteret's surveyor, Vauquellin, though as yet unpatented, and that they be permitted to graze their stock on unfenced lands. In return for these concessions they promised to pay a quitrent of one-half bushel of wheat per 100 acres—half the proprietary rate—if patented to "old settlers" (the associates and their heirs) and to relinquish all claims under the Nicolls patent. Those in arrears would pay one-third within two years.

The petitioners peremptorily gave Lawrie six days to accept these terms. He promptly told them that laws could only be made for the province as a whole and only by the assembly. Local officers might be chosen but only with limited authority vested in such officers in all the East Jersey communities. Lawrie assured them that no minister would be imposed upon them and that the next assembly would reiterate the guarantees of freedom of conscience contained in the Concessions, a sensitive point for the Quakers and Baptists of Monmouth County. Turning to the land problem, Lawrie requested the names of the first settlers, of those claiming the 4,000 acres, and of those whose quitrents were in arrears. He informed them that he could not accept the one-half bushel quitrent since he had no power to adjust the quitrent rate. He offered them the privilege of grazing their livestock on unfenced lands, although contrary to law. He urged the Navesink petitioners not to quibble over trifles, adding that if they delayed further he would not stand upon anything he had promised.

A month later Lawrie received a cool reply signed by John Hance, a former assemblyman, and Eliakim Wardwell, another leading Quaker. It would be futile to send him names, they wrote, since he had ignored their basic request for a reduced quitrent. Instead the Navesink towns would appeal to the British proprietors. After a lapse of six months, in February 1685, Lawrie summoned Hartshorne and eight others to show cause for the nonpayment of quitrents. Only Hartshorne appeared. Six weeks later, when no plea to stay execution was received, the sheriff was ordered by Lawrie to bring actions of distraint against the delinquents. The results were not encouraging. A horse was taken from one John Smith, but it was soon recovered by the owner. It was because of the difficulty of enforcing distraint that the Board in April 1685 began to employ *scire facias* to compel payment. Hartshorne and Berry were the first to be served with such writs.

The Navesink towns then sent Judah Allen and three others with new proposals. Lawrie informed them that by order of the British proprietors the Board had been vested with the supervision of rents and patents. Finally in July 1685 Lawrie and the Board accepted a new proposal signed by Allen, Hance, Wardwell, and three others. They agreed that all individual owners who had not yet patented their lands would make applications for patents of 100 acres, pay the quitrents, and renounce their claims under the Nicolls patent. On the 4,000 acres at issue, the "old settlers" would pay the proprietary quitrents of 6d. per 100 acres, and on all other claims the minimum rate of 1/2d. per acre would prevail. This compared favorably with the rate of 1d. or 2d. required on new applications. Thus Lawrie finally succeeded in establishing a measure of accord with the inhabitants of Middletown and Shrewsbury. These terms of 6d. per 100 acres to "old settlers" and 1/2d. per acre on other claims were eventually established for all six towns. The amount of land at issue in each township differed, but the claims, as we shall see, though similar, were not identical.[16]

The Elizabethtown associates, like those of Navesink, held a patent from Nicolls dated December 1, 1664. In December 1684 Lawrie was approached by a delegation of ten headed by John Parker, former assemblyman, and William Luker, an "old settler," with an offer to void their Nicolls and questionable Carteret patents in return for a general patent for their township lands subject to a nominal quitrent of one lamb per annum. Lawrie assured them that he would recognize an equity in all prior patents providing that the owners take out new patents. Indeed, if more land was needed, they were at liberty to take up to 10,000 acres at a small quitrent.

Unable to bring the delegation to agreement after a whole day's discussion, Lawrie offered to put the Nicolls patent to a test, either by the King in council or by the lords justices. The Elizabethtown men, as an alternative, proposed arbiters from Long Island or Newport, Rhode Island, but as these men were their kinsfolk, Lawrie countered with an offer of an arbitration by the East Jersey Barbadians of the Morris-Sandford-Kingsland group. This proposal was also rejected. In January 1685 the Elizabethtown men made a tender to turn in their old patents in exchange for a general township patent subject to an annual quitrent of £20. The governor rejected this proposal—as did the Board—since the quitrents from lands already patented came to £24 and, moreover, 20 settlers held lands not yet on the rent rolls. He proposed, however, that if they would bring in their present patents, he would treat with them for some accommodation. This assurance they regarded as unsatisfactory. But in 1686 individual owners began to take out patents under the terms established for Middletown and Shrewsbury. As in those towns, a number refused to make application. Thus there remained at Elizabethtown a source of infection. Lawrie believed that this obstinacy, too, had been prompted by the stand taken by Berry.[17]

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[16] *N.J.A.*, I, 43-46, 88-89; *M.P.E.J.*, 59, 61-62, 70-71, 89-90, 90-91, 132-133; Joel Parker, "Monmouth County during the Provincial Era," *N.J.H.S. Proc.*, 2nd Ser., III (1872), 17-39. Governor Parker then wrote, "after the Dutch War we find but little more of the controversy as to title to lands covered by the Monmouth patent."

Newark used her Indian title as a pretext for not coming to terms. In 1670 the people agreed to pay quitrents, but many had neglected to take out proprietary patents. Not one survey had been made in Newark by authority of Governor Carteret until 1675. Yet, as Whitehead commented, "They knew it was not sufficient to tender the rent only, but that it was equally as important and equally as obligatory upon them to recognize the proprietaries' rights and obtain their patents." Only after warrant and survey and patent had been completed could the owner's name appear on the quitrent roll.

In January 1685 four delegates from Newark read Lawrie a long memorandum upholding the authority of their Indian titles—a wholly invalid claim—and requested a general patent. Lawrie informed them that those holding patents must pay the quitrents and that those who did not must take out patents. For the unpatented lands they claimed, Lawrie offered to grant them a general patent "for hardly a farthing per akre." They must agree, however, to set aside the proprietors' seventh as required by the Concessions. Several weeks later they returned only to repeat their initial proposals. Lawrie again urged them to pay their rents. Since no agreement was reached, he concluded that Newark, like Elizabethtown and for the same reason, was procrastinating. In April a delegation led by Thomas Johnson, a former assemblyman, John Ward, a justice of the peace, and nine others offered to pay an annual quitrent of £50 for "a patent for a township and corporation of Newark town-bounds," but the Board advised against it since many individuals already held title to portions of these lands. These patents must first be examined and validated. In October the same group applied for "a patent for their town and a confirmation of their just rights

[17] *N.J.A.*, I, 18, 98; *M.P.E.J.*, 55, 56, 106; Whitehead, *East Jersey*, 292-293.

to their purchased bounds," as shown in their Indian deed of sale. This presumptuous offer was tabled by the Board. It was not until 1693, long after Lawrie's term was over, that the inhabitants of Newark accepted the terms offered at this time.[18]

In February 1685 John Gilman, a former assemblyman, and three others from Piscataway requested a patent at a nominal quitrent for all lands within the town-bounds as yet unpatented. Lawrie, as in the case of Newark, informed them that those holding patents must pay their arrears and that those who did not must take out patents. After long discussion it was agreed that all patentees would pay their quitrents and that those without patents would obtain them at a rent of 1/2d. per acre up to a total of 3,780 acres. This amount of land represented the difference between the 10,000 acres claimed by Piscataway and the amount of land already patented. Lawrie also insisted that 2,000 acres be reserved for the proprietors and specified that this tract be located along the Raritan with seventy chains frontage and inland toward Bound Brook. On the unpatented township lands, Lawrie asked a quitrent of £15 per annum. Since the delegates claimed that they were authorized to offer only £8, they returned home "to acquaint the town" and were not heard from again. Certain fractious men, who held no patents, Lawrie concluded, kept others from making a settlement, as in Elizabethtown. It was evident that they, too, were influenced by Berry's attitude.

Although the disaffection was not so acute in Piscataway as elsewhere, the Board, in January 1686, ruled that no more patents would be issued there until the proprietors' seventh was laid out. Then those willing to renounce their pretended rights were permitted to take up new patents under the standard terms. In August 1693 the Board, in order to put an end to dealing with individual owners, adopted a resolution enabling twenty-four "old settlers" who had not yet made application, to obtain 100 acres a piece at a rent of 6d. per annum.[19]

In accordance with the terms of their charter of 1669, the freeholders of Woodbridge had agreed "to submit themselves to the laws and government of the proprietors." In lieu of the proprietary seventh, Sir George and Lady Carteret had accepted a tract of 900 acres at nearby Ambo Point. Since Woodbridge, too, was dilatory about paying quitrents, Lawrie in 1685 sent a summons to four of the leading men to answer for nonpayment of quitrents on the township lands. They promised payment, but as they failed to pay, Lawrie threatened them with a second summons. A delegation then appeared bringing the town books and accounts which he insisted they leave for examination. He ordered them meanwhile to have their constable collect quitrents from individual patentees. This they refused to do unless the Board bore the expenses of the cost of collection. Lawrie decided finally that he must journey to Woodbridge and arrange a settlement, once he had obtained the quitrent payments of the individual patentees. In Carteret's time Woodbridge paid a quitrent of only £5 on its "great common," a tract of more than 16,000 acres!

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[18] *M.P.E.J.*, 56-57, 64-65, 93-94, 200, 209-210, 222-223.

[19] *ibid.*, 106, 108, 203.

In March 1686 Samuel Moore of Woodbridge, a former assemblyman and provincial treasurer, who held a 600-acre tract and several smaller ones, appeared before the Board. Always contentious —only a year before he had used "fractious language against the proprietors in general"—he vowed that he would pay no quitrents whatsoever. Since the Board refused to yield, Moore agreed reluctantly to patent his holdings and pay up his quitrents. Later others followed his example. Thus scarcely six months before Lawrie's dismissal, the inhabitants of Woodbridge had accepted the standard terms of settlement.[20]

Naturally in dealing with the principal men of the towns Lawrie had made enemies. He had recounted, he alleges, only "a fortieth part" of his affairs with the inhabitants and maintained stoutly that his actions could be substantiated by the records of both the court and the Board. Claiming that "all was done equally," he lashed out at opponents who had, he charged, acted out of envy or ignorance. William Penn "had borne hard upon him," yet Penn "had struck at governors before." Lawrie himself had criticized Penn for abetting Samuel Jennings in his revolt against Byllynge, the absentee proprietor of West Jersey, and he shared Rudyard's dislike of Penn for attempting, through the discredited John Baker, to buy up Nicolls patents in Elizabethtown. The fact that

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[20] Whitehead, *East Jersey*, 286-288; *M.P.E.J.*, 53, 87, 121.

Berry was Penn's agent in East Jersey did not encourage cordial relations between the two.[21]

Lawrie hotly asserted that "he had not taken anything from any man unrighteously," that he had accepted no gratuities, and that he had even made expenditures from his own purse. Conversely, Governor Carteret had been given a tract of land, which he sold for £150, as a bribe by the people of Woodbridge. "Some could have maid themselves in my tyme considerable sums and you not the wyser how done. . . . If I would have complyed with the people to your prejudice I could have had many such giftes." And, he wrote the proprietors, "I find it all one I have no more thanks of you." He had been labeled a knave and a tyrant, "without being heard to answer for myself." To the accusation that he had taken up 1,000 acres at Chingeroras in violation of the proprietors' regulations, the only infringement charged against him, he answered that he thought himself permitted to do this since at the time no one had protested it.

In July 1685 both Lawrie and Rudyard were censured by the proprietors. They pointed out that they had ordered that large blocks of choice lands be reserved for equal division among the proprietors, and in the case of small tracts, "it shall not be medled with" until the plurality of the proprietors gave their consent. Such tracts should be given a higher valuation, such as counting one acre as worth four acres or more. "This should have been done in the notable case of Cangoraza [sic] by Gawen Lawrie and Thomas Rudyard, so it is hereby declared by the Governor [Robert Barclay] and Proprietors." Although Lawrie was not removed until September 1686, this formal censure rankled. To be penalized so severely "without a due course of law, it's very hard," he wrote. Governor Rudyard had taken the position that the proprietors' methods were too constrictive, that "in other Provinces several Thousands are quickly accommodated, and have Land laid out to them." But Rudyard for his attitude had been demoted. At a council meeting in May 1684, five months later, he repeated his arguments: to deprive the governor and council of the power to lay out lands "will be absolute loss and Damage to the province, not onely to Discourage planters here but to make provision here for such as are to be Transported from Scotland and England into these parts."

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[21] *N.J.A.*, I, 437-438.

Be that as it may, Lawrie and Rudyard in July 1685 were charged by the proprietors with taking up choice lands at Chingeroras Creek without consulting anyone. Such tracts the proprietors pointed out should have been given a higher valuation, at a ratio of three or four to one. In consequence they proceeded to evaluate Lawrie's tract as worth 4,000 acres and Rudyard's as 3,000 and to deduct these amounts from their dividends of 10,000 acres. They then stated that if either of them were dissatisfied with this decision, they would reclaim these tracts.[22]

The Lawrie assembly met from April 6 to April 19, 1686, for the first time at Perth Amboy. Since John Bowne, the former speaker, had died in 1684, Richard Hartshorne was elected. The nineteen representatives were Hartshorne and Benjamin Burden of Middletown; Judah Allen and John Hance of Shrewsbury; John Curtis and Thomas Richards of Newark; William Pyles and John Parker of Elizabethtown; Ephriam Andress and John Jerley of Woodbridge; Isaac Smalley and George Drake of Piscataway; Hans Diederick and Peter Hessels of Bergen; John Campbell and Benjamin Clarke of "Amboy"; Richard Berry of New Barbados and Acquackanonck; Samuel Edsall of Hackensack and "outplantations"; and William Pinhorne "of the plantations of both side of the Raritan." Pinhorne failed to attend the session.[23]

The April session adopted thirteen laws, all but one of which, since they were extensions of existing laws, have been discussed earlier. The additional law provided for the establishment of a weekly market and for spring and fall fairs at Perth Amboy. The freemen of the new township corporation were ordered to provide a clerk and keeper of the tollbook and to obtain a set of public weights and measures with reasonable fees for their use. The assembly without much success tried its hand at the vexing problem of the currency. Since 1668, and indeed until 1698, taxes were collected in kind simply because no currency was available. Lacking provincial coinage, a great variety of coins were circulating: Mexican and Seville pieces of eight of four different values, Peruvian coins, English crowns and shillings, New England shillings, German rixdollars, ducatoons, Scottish four-mark pieces, French crowns, and others. With coins in great demand, the assembly endeavored to prevent them from disappearing from the province by raising the value of all coins by a third. Unfortunately the balance of trade, small though it was, was against East Jersey. At the October session, "it being found by experience that many inconveniencies may attend the same," the April law was unanimously repealed. The matter was not raised again until 1702, although during the 1690's the Board attempted to have various types of commercial paper, worth £10 or under, accepted as legal tender.[24]

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[22] *ibid.*, 477, 498-499, 531-532; XIII, 130-131. In 1701 George Willocks, in making serious charges against William Dockwra, blamed him for arbitrarily penalizing Lawrie "without any tryall, hearing of partyes or Legall Conviction of any Crimes Committed" (*ibid.*, 286-287).

[23] *ibid.*, XIII, 143, 145, 147.

Lawrie's assembly is memorable not so much for the legislation it adopted as for its refusal to approve several measures. First it rejected the Fundamental Constitutions. On April 12, Lawrie read this instrument in council. "But," recorded the council, "it was the sense of this board that the same did not agree w'th the Constitucon of these *American parts*," (my italics). Three days later the lower house, asked to consider them, returned them to Lawrie without comment. On his insistence that a statement be made, the house resolved, on the last day of the session, "that they app'r'hended that they did not agree w'th the Constitucon and they understood that the same were in noe wise bindeing Except past into a Lawe by the Generall Assembly." The proprietors wisely abandoned the whole project.[25]

Since no provision for revenue had been made since December 1683, the house was again urged to adopt a tax measure. It had received assurance in December 1683 that no tax would be imposed without the consent of the assembly. The council had agreed that the liberties of the people in this regard were "fairly secured" by the Concessions. Lawrie pointedly inquired whether the deputies intended to provide for the cost of government, particularly the expenses of the secretary and the council. The house replied that it saw no reason why the inhabitants should underwrite the maintenance of these men since they did not have the power to appoint them. They then asked for an adjournment on the ground that it was planting time; moreover, they needed to consult their constituents. The governor and council agreed, but only on condition that the house would reconsider the matter at the October session. The problem, however, was to fall to Lawrie's successor.[26]

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[24] Leaming and Spicer, 285-286, 287-288, 295; *N.J.A.*, XIII, 161-162; *N.J.H.S. Proc.*, LXXIV (1956), 108-109.

[25] *N.J.A.*, XIII, 154, 158.

Meanwhile the English proprietors had become uneasy over the state of affairs in the province. They had expected full accounts from Lawrie but had received only brief comments. Consequently they directed the resident Board to conduct a comprehensive inquiry touching many matters: an audit of the accounts of Lawrie and other officers to ascertain what moneys had been received from the sale of lands, from quitrents, and from other sources; an examination of all expenditures; and a check of all patents of land. They wished also to have a full account of the houses and lots at Perth Amboy, and an inventory of the proprietors' houses, chattels, and lands elsewhere.

In March 1686 the proprietors decided to deal directly with the situation and commissioned Andrew Hamilton, a merchant of Edinburgh, to superintend the inquiry personally. Perth, Melfort, Barclay, Burnet, and Sir John Gordon, the leading Scottish proprietors, were insisting upon an accurate appraisal of their investment. The next month the proprietors appointed William Dockwra as their sole agent with the stipulation that any instrument signed by him would convey the same authority as if signed by a majority.

Hamilton, who had purchased a one twentieth share from Sir John, a cousin of Barclay, was to be associated with East Jersey until his death in 1703. He is first mentioned in 1683 as having an interest in ten indentured servants whom he was transporting. He himself arrived in the late summer of 1686. As the confidential agent of the proprietors he was given a large assignment, one more specific than that accorded the Board. He was to render a full account of the disposition of the proprietors' cargo, worth £950, from John Reid and John Hanton, overseers, that had been entrusted to David Barclay, now deceased, and to ascertain to what extent they had carried out the proprietors' instructions. They wished to know what lands had been taken up, their value and quality, how the overseers had spent all sums received, what debts were outstanding, what servants and livestock were on the proprietors' lands, what dwellings had been erected, what income had been derived from the sale of produce, what increase of livestock had taken place, what lands had been improved by manuring, and what lands had been fenced. Hamilton was also directed to make a general survey of the proprietors' inventory, estimate its value, and suggest opportunities for increasing its worth.[27]

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[26] Leaming and Spicer, 269-270, 274; *N.J.A.*, XIII, 13, 90, 153, 156, 158, 159, 161.

Lawrie, as we have seen, had had a difficult time with the inhabitants and their elected representatives, and he no longer enjoyed the confidence of the proprietors. His personal abuse of the land regulations, his failure to get the Fundamental Constitutions adopted, and his failure to keep the proprietors fully informed were the principal reasons for his removal in September 1686. He was superseded by Lord Neil Campbell, already in East Jersey, on October 5. The proprietors believed that Campbell's appointment as deputy governor would encourage the migration of Scots. The new governor attended faithfully to province business during a brief tenure: he met regularly with the council, he guided the deliberations of the October term of the assembly, and he worked toward a solution of boundary problems with the provinces of New York and West New Jersey.

Lawrie remained on the council, as did Codrington and Townley. John Berry was restored, and Samuel Winder, Rudyard's son-in-law, and John Johnstone of Middletown were newly appointed. Two Scots comprised a new element: Andrew Hamilton and David Mudie. Mudie also served on the bench of the court, joining Henry Lyon, Thomas Johnson, Richard Townley, and John Campbell as Lawrie appointees. The Scots, whose primary interest was land distribution, were more interested in the Board than in the activities of the court. The Board itself underwent little change. George Keith, the Quaker apologist, now surveyor general, joined it in December 1686, as did Hamilton a month later. Keith, who arrived in February 1685, held a commission as surveyor general, but Haige was not removed immediately. Not until his illness was fully established did the Board recognize Keith's commission, though the proprietors' directive that he be granted a patent for 500 acres and a lot in Perth Amboy was immediately honored.

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[27] *N.J.A.*, I, 502-504, 508-513.

Though Campbell's assembly, held in October 1686, passed five laws, most of its time was spent upon a renewal of the controversy about a revenue act. On October 20, the day the assembly reconvened, Campbell reminded the deputies of the necessity of such a measure, long delayed. He was ignored. On the last day of the session, the twenty-ninth, Campbell as a last resort insisted upon a joint meeting of the houses. Speaker Richard Hartshorne, on behalf of the deputies, spoke against the adoption of such a measure. He argued that the inhabitants had already been put to charges fully equal to those of the proprietors since they had borne the cost of all public improvements—highways, bridges, wharves, and prisons. He went much further, charging that "a great p't of their Land has bin lately granted to others to which they [the inhabitants] had an undoubted Right," and, the council journal states, Hartshorne indulged in "sundry other Evations." Though Lawrie had many times expounded to them the proprietors' rights in the land, they insisted upon more time for consideration. Hartshorne then bluntly stated that the assembly should not adopt a revenue act and that the inhabitants "were not willing to maintaine a governm't ag't themselves &c." The assembly adjourned without taking action. Years were to elapse before a revenue measure was adopted. It was all Hamilton could do when he became governor to persuade the stubborn representatives that they must, at the insistence of the crown, make some provision to aid New York in a common defense against the French.

Hardly three months after taking office, in December 1686, Lord Campbell informed the council that he must return to Scotland upon urgent personal business. He nominated Andrew Hamilton, as his commission permitted him to do, as his deputy. Lawrie alone, of the council, opposed the nomination on the ground that Hamilton "was already out of Esteeme w'th the planters and inhabitants of the Province." The other members, however, were delighted when Hamilton, after much reluctance, agreed to fill the post. Campbell's last council meeting took place on January 19, 1687, and he left a month later, never to return. On March 12 Hamilton, formally producing his commission, took the chair at the council meeting and on April 14 presided over the first meeting of the Board since January. Hamilton was soon to become governor.[28]

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[28] *ibid.*, XIII, 142, 162, 169, 170, 171, 172, 174; Edsall, *Jour. of Court of Common Right*, 35-37; *M.P.E.J.*, 154.

CHAPTER XI

The Proprietors and Their Lands

The East Jersey of the Twenty Four Proprietors was a Quaker-initiated rather than a Quaker-administered enterprise, for it failed to produce a single Quaker settlement. Instead a Scottish settlement, Perth Amboy, became the capital of the province. The change in composition of the proprietors from a Quaker group centered at London to a steadily increasing Scottish group had repercussions in the province. The resident board of proprietors of East Jersey, for example, became a predominantly Scottish, non-Quaker body. Among the Scottish immigrants were very few Quakers, and few if any Quakers came as indentured servants.

The resemblance between the provinces of East and West Jersey is only superficial despite the similar methods employed in land distribution. From 1676 to 1685 the West Jersey proprietors were, above all, concerned for the development of West Jersey as a Quaker enterprise; thus the sense of mission was high. In East Jersey, despite the vision of Robert Barclay in the initial stages, this feeling was virtually missing. More than a fourth of the owners of the one hundred West Jersey proprieties became residents of the province, but of the Twenty Four Proprietors of East Jersey only Thomas Warne, the Irish Quaker, took up permanent residence. Rudyard, Groom, and Lawrie were there for brief periods as officials; David Barclay died in his second journey, while Penn and Turner came as visitors only. The proxy and the agent loom large in East Jersey records. Hardly a year after Barclay became governor it was clear, perhaps inevitable, that East Jersey was to be a business speculation. By 1689, the right of government had become a liability; land was the only asset of value.

In 1682, when the Twenty Four Proprietors came into being, about 3,500 "old settlers" were living within the town bounds of

Shrewsbury, Middletown, Woodbridge, Elizabethtown, Piscataway, Newark, and Bergen. Each town, besides ample townlands, claimed "outplantations" within the township bounds of from 30,000 to 60,000 acres. Much of this land was later disputed by the proprietors. The Twenty Four Proprietors soon settled upon a method of land distribution. Each proprietor was entitled to equal dividends of land. The first dividend was 10,000 acres. In 1698 there was a second dividend of 5,000 acres, and in 1702, a supplementary dividend of 2,500 acres. Thus during the proprietary period a total of 17,500 acres per propriety was agreed upon. Those holding fractions of shares, such as one-half or one-tenth, would receive proportionate amounts of land. Specific dividends were assigned as tracts were opened up after purchase from the Indians, survey, and registering.[1]

The owner of each whole propriety was entitled to four 9-acre lots and 25 acres of townland in Perth Amboy; to a choice of lands not exceeding 1,000 acres at Chingeroras, the South River, the upper Raritan, or Cedar Brook; to 500 acres at Wickatunk in Monmouth County; and to 1,200 acres of "Barnegat land" in dividends of 200 and 1,000 acres. Large tracts were later opened up on both banks of the Raritan and the Millstone, on the Passaic and its branches, along Doctor's Creek, Stony Brook, Crosswicks Creek, and Assinpink, the Province Line, and on the South River and its Toponemus branch. Such lands were not assigned for the most part; the individual proprietor, generally through his agent, was required to apply to the resident board of proprietors for warrants for lands in proportion to his rights. A survey of the tract located was then made, and if no other claim existed, it was accepted by the surveyor general and entered upon the records.[2]

This system of land distribution, as in West Jersey, was an awkward one, entitling the owner to an indeterminate number of dividends of an indeterminate number of acres. For East Jersey, as for West Jersey, it is difficult to trace the chain of the individual proprietary titles. (See Appendix.) The task is somewhat easier for East Jersey, first, because there were only twenty-four proprieties and, secondly, because the value per share was too great to be written off as a donation for founding an asylum for suffering Friends.

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[1] Tanner, *Province of New Jersey*, 57.

[2] *N.J.A.*, XXI, Pt. I, "East Jersey Records," 1-339; *M.P.E.J.*, 50-263 *passim.*

The London proprietors, after Barclay's election, willingly left much of the planning to him. It was he, too, who brought the Scots proprietors into being and integrated them into a promotional unit. Nevertheless, since they had invested capital in the enterprise, most of the London shareholders attended the proprietors' meetings and worked closely with Barclay until his death in 1690. As time passed, the leadership was gradually assumed by William Dockwra, the London merchant who had purchased Samuel Groom's propriety in July 1683. He was formally appointed register and secretary of the province in the year of Barclay's death. Dockwra was an ambitious, self-seeking man whose arbitrary conduct led to his repudiation by the resident board in 1702.

In the absence of an efficient method for the distribution of lands by the Twenty Four Proprietors, it will be of some interest to follow the experience each had with the disposition of his interest. (See Appendix for changes in the proprietory interest.) Since before 1702 there was no great market for East Jersey lands, the pattern is highly varied running from indifference to avarice. Many of the absentee proprietors who entered claims for the lands to which they were entitled did nothing once their interest was recognized by the resident board. Others placed their rights in the hands of agents in the colony who represented them before the board and endeavored to sell their lands after the proper surveys and entries had been made.

A number of proprietors, as has been mentioned, came to the province. Thomas Warne alone resided there from 1684 until his death. Rudyard, Groom, Lawrie, Neil Campbell, and Hamilton were there in official capacities for varying periods of time. William Penn and Robert Turner lived in Philadelphia and at least were in closer touch with their agents in New Jersey than those who lived across the seas. Yet during the whole proprietary period from 1682 to 1702, a score of years, neither those resident nor absentee attained great affluence through the sale of lands.[3]

Thomas Rudyard was in the province as governor and later as secretary-register from the end of 1682 until the end of 1685. Rudyard and his surveyor general fell out over the method of distributing lands. Groom, following the Concessions, insisted that a fraction of all lands surveyed should be reserved for the proprietors, a position that was upheld by Thomas Warne, the Irish proprietor, who arrived in May 1683. When Governor Barclay was apprised of the fact that Rudyard had removed Groom, he appointed Gawen Lawrie deputy governor. In November 1685, after serving as secretary-register, Rudyard moved to the Barbados where he died in 1692. During his sojourn in East Jersey he took up, among other tracts, 300 acres above Amboy Point on the south side of the Raritan, 1,500 acres on the west branch of the Raritan, and 500 acres at Wickatunk. Before emigrating to Barbados Rudyard deeded a fourth of his propriety to each of his daughters, Anne, who married John West, and Margaret, who married Samuel Winder. Both men were Rudyard's agents in the province. On his death his remaining half-share was bequeathed to his children together with all his property in East Jersey. Margaret, a widow before Rudyard died, married George Willocks, a member of the resident board. In August 1693 Willocks applied for 2,880 acres of land, the amount remaining on his wife's one-half share and her brother's one-half that Willocks and his wife had purchased.

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[3] *N.J.A.*, I, 227; XXI, 58, 65, 68, 96, 140, 210; Fox, *Journal*, II, 420; Fox, *Short Journal*, 358; Barclay, ed., *Letters of Early Friends*, *op.cit.*, 348, 349.

Samuel Groom was also one of the Twenty Four Proprietors. A mariner who had come to East Jersey in November 1682, he died suddenly in the late summer of 1683. In London he had been a prominent Quaker and after his death George Fox visited his widow at Ratcliffe several times. His son, Samuel, Jr., had no interest in East Jersey and sold his father's propriety to the influential William Dockwra. Groom's son-in-law, James Brain, also a Quaker, was the owner of a propriety. Brain attended the proprietors' meeting in London and paid his assessments, but he never came to East Jersey. On his death in 1690 his three sons inherited his propriety, but it was not until 1698 that they applied to the resident board for their first dividend of lands.[4]

Gawen Lawrie became involved in East Jersey affairs as the purchaser of a share from Thomas Wilcox in trust for the children of Arent Sonmans. His memorandum on colonization, written at the invitation of the Scottish proprietors, won him the deputy governorship in July 1683. He came to East Jersey in February 1684 with his son-in-law, William Haige, whom he appointed his surveyor general. Haige like Lawrie was a proprietor of West Jersey and a first purchaser of Pennsylvania. Lawrie transported four indentured servants and two Negro slaves, while Haige brought two servants and four slaves. Lawrie was replaced in 1686 principally because he was suspected of laying out lands without inviting all the proprietors to share in their distribution. He remained in the province as receiver general until his death in the fall of 1687. The records indicate that he obtained warrants for 4,500 acres, the amount he was entitled to as owner of the half share he purchased from Robert Gordon of Cluny upon becoming deputy governor. Lawrie had taken up lands on the south bank of the Raritan, Wickatunk, the head of Swimming River, and elsewhere. He was survived by his widow and daughters, Mary, the wife of Haige, and Rebecca, the wife of Miles Forster. In 1698 they issued a confirmatory deed to Rachel Ormston, daughter of Sonmans, for the propriety that Lawrie had held in trust for the Sonmans' children.[5]

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[4] *M.P.E.J.*, 125, 204, 229; Barclay, ed., *Letters of Early Friends*, *op.cit.*, 347, 349.

William Dockwra, who had purchased the Groom propriety in 1683, took an active interest in settling the province. He had invested £100 in the Scottish proprietors' cargo of 1683 and during the next two years he sent out 35 indentured servants. Next to the Sonmans' heirs, Dockwra paid the largest charges in support of the province, a total of £110 from 1683 to 1698. In 1685 he purchased 7/40 of the Thomas Cox share and 1/2 of Mew's share. Outweighing his substantial landed interest, however, was his conspicuous role on the council of proprietors. He proved himself invaluable to the London men, who in March 1685 granted him 1,000 acres for "his fidelity, care, and pains in negotiating the public affairs of the province." Later he was voted an additional 1,200 acres for his services as their agent. Meanwhile, in July 1688, he became receiver general and treasurer, and in November 1690 he was appointed secretary and register. Dockwra never resided in East

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[5] "Propositions of Gawen Lawrie for the Settlement of East Jersey, 1682," *N.J.H.S. Proc.*, VI (1921), 229-233; Barclay, ed., *Letters of Early Friends*, 349; *N.J.A.*, I, 529; XXI, 61, 306; *Bill in the Chancery of New Jersey at the suit of Robert Barclay against William, Earl of Stirling* (Burlington, N.J., 1773), 6 (hereafter cited as *Barclay vs. Stirling*).

Jersey; his duties were performed by deputies. Although he was removed for malfeasance in 1702,[6] he is remembered for his contributions in initiating the postal service, both in London and in the colonies. He died in 1716.[7]

Andrew Hamilton, the Scottish merchant, acted as Dockwra's proxy and agent in the province, and the two worked together for their mutual advantage. Dockwra took up other choice lands throughout the province. In 1686 he secured headlands on his servants and 3,500 acres on the Manalapan; in 1687, 2,000 acres on Crosswicks Creek near the Province Line; in 1688, 2,000 acres on the Passaic above the falls; 3,000 on the Millstone; and 2,000 between the Raritan and the Millstone; in 1690, 3,000 at the head of the Assinpink and 3,000 additional on the Passaic. He also received his assignments of land in Perth Amboy, a tract at Wickatunk, and Barnegat lands. In 1700 he obtained a second dividend of 3,800 acres between the Millstone and the Assinpink and 800 acres along the Millstone. In fact, there was hardly a portion of East Jersey lands in which he did not share. A large land boom would have benefited him enormously.[8]

Robert Barclay's agents in the province took up the lands to which he was entitled. He owned one share which he retained, a half-share which he sold off in ten equal portions to fellow Scots, and his brother David's share which he sold to Sonmans. Before his death in 1690 he had taken up only 1,700 acres on the Raritan, in the Cedar Creek area, and in Wickatunk. He conveyed one-tenth of his propriety to Edward Fleatham of Yorkshire, but in 1696 this fraction was obtained by Gilbert Mollison, Barclay's father-in-law. David Barclay with Robert's aid had purchased a propriety from Thomas Wilcox, and to secure his title he had paid off a mortgage held by Thomas Cox, the London vintner, and Charles Cox, the Surrey brewer. But David, who had charge of the cargoes sent out by the Scottish proprietors, died in August 1685. Robert, who inherited, appointed his brother John to be his agent in New Jersey. In 1773 a descendant of Barclay's contested the legality of the sale of this share to the Sonmans heirs, but to no effect. Robert Gordon of Cluny, Barclay's uncle, purchased a propriety to provide for his younger son, Augustine, then an apothecary's apprentice, in the hope that Augustine would not be dependent upon his elder brother. He sold half this share to Gawen Lawrie on Barclay's request. For a time Gordon considered transporting indentured servants and families on a leasehold basis and personally developing his lands but at forty-four he regarded himself as too elderly to make the effort! He died in 1688 bequeathing his holdings to Augustine, then a London apothecary.[9]

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[6] See below, pp. 349-352.

[7] *N.J.A.*, I, 529; II, 27-28, 31-33; XXI, 71, 114, 123, 126, 129, 136, 211, 236, 322; *M.P.E.J.*, 110, 133, 162, 166, 170, 172, 178, 186, 189.

[8] *An Answer to a Bill in the Chancery of New-Jersey, . . . at the Suit of John Earl of Stair . . . against Benjamin Bond . . .* (New York, 1752), 86 (hereafter cited as *Stair vs. Bond*); *N.J.A.*, XXI, 65, 67, 68, 110, 152, 153, 154, 156, 180, 206, 223, 278; *M.P.E.J.*, 77, 92, 104, 105, 122, 142, 147.

Arent Sonmans, the Dutch-born Quaker merchant, took up residence in Scotland about 1680. An old friend of Fox, Barclay, and Penn, he was greatly interested in Friends' colonization efforts in America. He became a first purchaser of Pennsylvania with a large holding of 5,000 acres, he was the owner of two proprieties of West Jersey, and he was a proprietor of East Jersey. He met death at the hands of a highwayman in August 1683 in Hunterdonshire on his return from London in company with Barclay, Mollison, and several other Friends. Sonmans was survived by his wife, Frances, and three children, Peter, Rachel, and Joanna. Peter resided in East Jersey on several occasions—during the proprietary period he was there from 1685 to 1687—but neither of the others came. Rachel married Joseph Ormston, a London merchant, and Joanna married Joseph Wright, also a London merchant. Sonmans and Ormston were signers of the surrender in 1702.

The Sonmans heirs, as they are termed in the records, ultimately held 5¼ proprieties, by far the largest single interest in the province. These shares were obtained as follows: one purchased by Arent Sonmans, one purchased by Lawrie in trust for the Sonmans children, one purchased from Hugh Hartshorne or his heirs, one purchased from Robert Barclay, a half-share purchased from Melfort, a half-share purchased by John Hancock in trust for the Sonmans children, and a quarter-share purchased from Perth. Although the ownership of several of these shares was later contested, the resident proprietors in 1692 clearly recognized the Sonmans' title to five and one-fourth shares. In the division of the Wickatunk tract in March 1686 the Sonmans were assigned four lots, indicative of their ownership of four proprieties at that time. The Sonmans paid a total of £275 on five and one-fourth shares between 1684 and 1696 in proprietary assessments, the largest total paid by any owner.

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[9] Whitehead, *East Jersey*, 136-137, 428-429, 448-449, 450; *M.P.E.J.*, 65, 117, 126, 148, 162; *N.J.A.*, XXI, 51, 55, 56, 58, 60, 69, 171, 181, 193, 308; *Barclay vs. Stirling*, p. 6; *N.J.H.S. Proc.*, new ser., VII, 5, 9-11.

Peter Sonmans acted as agent for the family interest until he left East Jersey in 1687, and until 1705 Miles Forster, a son-in-law of Lawrie, was the Sonmans' proxy on the resident board as well as their agent. In 1692 Forster applied for warrants to locate 38,600 acres to complete the first dividend. This was the largest grant made by the board between 1682 and 1702. These lands were later located in two vast tracts, one of 23,000 acres in Middlesex County between the Raritan and the Millstone and the other, containing 16,500 acres, on both sides of Lawrence Creek in the same county. Peter Sonmans' quest for power kept the province in a turmoil long after the proprietary period. He was an unscrupulous man and surrounded himself with scheming men both in East Jersey and in London. He quarreled with his brother-in-law, Joseph Ormston, and their quarrel, too, had repercussions in the province. Sonmans' later career belongs to the history of the royal period.[10]

From 1683 to 1685 thirty Scots purchased fractions of shares from four London proprietors, John Heywood, Clement Plumsted, Ambrose Rigge, and Thomas Cooper. Barclay was instrumental in arranging these transfers since he was eager to extend and broaden the Scottish participation. Heywood, a Quaker who had suffered much for his faith, disposed of his propriety as early as March 1683 to Robert Burnet, a Scottish Quaker. Burnet was an intimate of the Barclays and the Gordons. He, too, had suffered grievously during the persecutions in Aberdeen and had been imprisoned several times in its notorious tolbooth. On one occasion, as "a landed man" he was fined a fourth of his rents for attending a Quaker conventicle and an eighth of his rents for absenting himself from public worship. Undoubtedly his harsh experiences led him to interest himself in establishing a haven for Scottish Quakers.

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[10] During his lifetime Arent Sonmans made purchases "in trust for the Sonmans children" because no proprietor was permitted to own more than one propriety. This rule subsequently broke down. Fox, *Short Journal*, 237, 238, 253, 254; *N.J.A.*, I, 528-530; II, 202, 459; XXI, 207, 306; *M.P.E.J.*, 126, 197. On the career of Peter Sonmans see Tanner, *Province of New Jersey*, and Donald L. Kemmerer, *Path to Freedom* (Princeton, N.J., 1940).

In addition to the Heywood share Burnet bought a half-share from Clement Plumsted. He sold off both purchases rapidly in fractions to a number of Scots. In 1683 and 1684 Andrew Jaffray obtained 1/16; Dr. James Willocks, 1/8; William Gerrard, 1/32; Robert Gordon of Edinburgh, 1/32; James Miller, 1/32; George Alexander, 1/32 and Robert Hardy, 1/128. Dr. Willocks immediately sold 1/32 share to Andrew Galloway. Burnet in 1693 sold 1/16 to Robert Sandilands. Of this group Jaffray, Galloway, Sandilands, and, in all probability, Gerrard and Miller were Quakers. Of his second purchase, that from Plumsted, Burnet sold 1/8 share to Dr. William Robertson, 1/10 to John Forbes, and 1/32 to Dr. John Alexander. Of all the Burnet purchasers only Robertson, Forbes and Hardy took up residence. Miller came over in 1685 but returned in less than two years.

Surprisingly Burnet himself emigrated in 1700 and remained in East Jersey until his death in 1714. He sat on the resident board, as was his right, in 1700 and 1701. George Alexander, a lawyer of Edinburgh, and his brother John, a physician, were represented in East Jersey by Andrew Alexander, a kinsman. In 1685 they located their holdings jointly, taking up 400 acres in the Blue Hills (Cedar Brook) area and in 1702 they obtained as a second dividend approximately 300 acres on the upper Passaic. Dr. Willocks in 1687 was confirmed in the ownership of 850 acres at the junction of the Raritan and the Millstone and of four acres in Perth Amboy. By 1697 his holdings had passed to his son George who had settled in East Jersey and had become prominent in the affairs of the colony. Galloway, a merchant of Aberdeen who had suffered during the persecutions, and William Gerrard of the same city were represented in East Jersey by John Barclay. By 1688 Galloway was confirmed in the ownership of 300 acres on the south side of the Raritan, eighty acres at Barnegat, and a town lot at Perth Amboy. Gerrard's land was located in the Blue Hills area. Andrew Jaffray of Kingswells was a prominent Quaker minister and a close friend of Barclay. From 1676 to 1679 he spent long terms in Aberdeen jail for preaching to all who would listen. He attained fame in 1677 when he was arrested for parading nude in the streets. He defended himself by saying that his exposure was to illustrate that the religious practices of the state were as offensive to God as was his indecent conduct to the senses of man. In 1689 John Barclay as his agent took up a first dividend of 600 acres on the Manalapan River.

James Miller of Carronshorne, a small estate owner, was in East Jersey for about two years, and through his agent, John Reid, he obtained 600 acres on the Raritan. Just before his death in 1698 he sold his fraction. Robert Gordon, cardmaker and citizen of Aberdeen, located his lands on Bound Brook and on the Toponemus. After his death in 1696 his fraction was sold to George Willocks who, in turn, sold both his fractions to Jeremiah Basse, deputy governor of the Jerseys in 1698 and 1699. Robert Hardy, a merchant and burgess of Aberdeen, emigrated and took up a tract on the South River. For a brief time before his death in 1688 he acted as agent for several Scottish fractioners. Robert Sandilands, friend of Burnet and Forbes, was also a Quaker who had suffered imprisonment in Aberdeen during the persecutions. John Forbes of Aquorthes, brother of the Laird of Baynlie, had been fined and imprisoned at Aberdeen for attending illegal conventicles. He crossed the ocean with a group of friends who settled at Cedar Brook. He transported three indentured servants. After locating his lands at Cedar Brook and the South River he returned home as he had planned, designating Hardy as his agent. Dr. Robertson emigrated in 1685 and settled on the Rahway. There he located 700 acres and took up his remaining lands at Manasquan (Squankum) and Barnegat Meadow. He was a close associate of Charles and Thomas Gordon, Robert Fullerton, John Barclay, and William Laing, all former neighbors in Scotland.[11]

Clement Plumsted retained a half-share. He never visited East Jersey but attended the London proprietors' meetings regularly and signed the surrender in 1702. Through Thomas Boell, also agent for proprietors Hart, Cooper, Barker, and Benthall, he obtained his Perth Amboy lots and townland, 500 acres at Barnegat, 500 acres in the Shrewsbury tract, 250 acres at Wickatunk, 2,000 acres on the Millstone, and 2,200 acres between the Assinpink and the Raritan. His second dividend was located on Crosswicks Creek. Plumsted, a well-known Quaker minister, was an intimate of William Gibson and Thomas Cox, fellow proprietors. He was a correspondent of the Meeting for Sufferings and was among the Friends against whom charges were pending when the King's pardon was announced in March 1686.

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[11] For names mentioned in this section, consult indices of Besse, *Sufferings of Quakers*, I and II; *N.J.A.*, XXI; and *M.P.E.J.* See also *N.J.A.*, I, 529, 530; XXIII, 76; *Stair vs. Bond*, 84; the *Advertisement* (1684) is in Insh, *Scottish Colonial Schemes*, 233-237.

Ambrose Rigge, another of the Twenty Four Proprietors, resided at Gatton Place, Surrey, most of his life. A Quaker minister, he was imprisoned for long periods; in fact, he was confined to Horsham jail for ten years from 1662 to 1672 for his dissent. In addition to preaching, Rigge wrote some forty religious tracts. He was one of the speakers at Gracechurch Meeting at the time of George Fox's death in 1691. Rigge disposed of his propriety rapidly, selling half to Thomas Robinson of Lincolnshire and the other half to Robert Barclay. Robinson was a farmer of substance. As a Quaker he suffered imprisonment several times in Lincoln Castle for attending conventicles and for refusing to pay tithes. For various offenses he was distrained of bullocks, steers, sheep, and other livestock. Robinson, who never came to East Jersey, appointed Thomas Warne, the Irish proprietor, to act as his agent there. From 1685 to 1687 Warne obtained for him his Perth Amboy townland, Wickatunk land, 1,000 acres near Elizabethtown, and smaller tracts along "the Burlington path" and on the Raritan. In 1687 Robinson sold his half share to Dr. Andrew Hamilton of Edinburgh but because of the latter's death soon after, this fraction was finally purchased for £220 by David Lyell, a goldsmith of St. Martin's, Middlesex. Subsequently Lyell came to East Jersey and resided there until his death in 1726. He served on the resident board and was a signer of the surrender. He was an active trader in East Jersey lands.[12]

Robert Barclay, following his plan of extending the Scottish interest, sold his half-share of the Rigge propriety in fractions of one-twentieth to Robert and Thomas Fullerton, Charles, Thomas and Dr. John Gordon, John Barclay, James and John Johnstone, William Aickman, and Sir John Dalrymple. Barclay was related to the Gordons and Thomas Fullerton was the brother-in-law of Dr. John Gordon. The Fullerton brothers of Montrose were mentioned in the promotion tract of 1684, although the eldest, John, Laird of Kinnaber, never purchased a fraction. Settling at Cedar Brook, Robert and Thomas were enthusiastic about this "first inland settlement." Both were members of the resident board at its beginning in April 1685 and sat for several years. Robert obtained 300 acres at Blue Hills and 150 acres "over Amboy," while Thomas located his entire dividend at Blue Hills. Both obtained head lands on the servants they imported. Charles and Thomas Gordon also arrived in the fall of 1684. In 1687, after locating the bulk of his land on South River, Charles returned to Scotland. He sold his fraction to George Henrie, a merchant of Edinburgh. Dr. John Gordon remained in Scotland. His agent located his land on Stony Brook. By 1695 he had sold this land and his second dividend of 250 acres. Thomas served on the resident board throughout the entire proprietary period and was a signer of the surrender. Settling first at Cedar Brook he soon moved permanently to Perth Amboy. Within a year he had lost through illness his young wife and several children and had married Janet, the daughter of David Mudie. In addition to his political activities, Thomas Gordon became an inveterate land trader. He was also proxy, agent, and attorney for a number of proprietors. In 1693 he acquired the fraction that his brother Charles had sold to Henrie and obtained the remainder rights to several other fractions. He traded in head rights, an unusual occurrence in East Jersey. Gordon held a variety of offices: in 1692 he was deputy secretary and register and in 1702 he succeeded Dockwra as secretary and register. He served also as attorney general, judge probate, chief justice, receiver general and treasurer, and speaker of the assembly. At the time of his death in 1722 he was a member of Governor Burnet's council. He was also a communicant of St. Peter's Anglican church in Perth Amboy.

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[12] Fox, *Short Journal*, 311; *Journal*, II, 470-471; Barclay, ed., *Letters of Early Friends*, 208, 347; Besse, *Sufferings of Quakers*, I, 229, 480; *N.J.A.*, I, 530; II, 205, 459; XXI, 79, 105, 122, 127, 145, 292, 305; *Stair vs. Bond*, 84.

John Barclay came to East Jersey in 1683, returning the following year for his family and five indentured servants. In addition to his fraction he purchased 500 acres from his brother Robert and obtained 200 acres of head lands. He was never a large landowner.

As a member of the resident Board he was in a strategic position and, in consequence, was employed from time to time as proxy and agent. He, too, resided first at Cedar Brook then moved to Perth Amboy. Barclay sat on the Board throughout the period and signed the surrender. He served also as surveyor general and in 1695 was appointed deputy register and secretary while Thomas Gordon was in England. At various times he served as clerk of the Court of Common Right, the Middlesex sessions court, and the supreme court. He was also elected to the assembly. He fell out with Governor Cornbury as had Thomas Gordon. Peter Sonmans, too, was his enemy. Barclay became a Keithian and followed George Keith into the Anglican church. At the time of his death in 1731 he was in poor circumstances.

James Johnstone, too, was a member of the Scots' colony at Cedar Brook. His brother John came later on the ill-fated *Henry and Francis* and later married George Scot's daughter Euphemia. James, meanwhile, moved permanently to the Toponemus Creek area where he had located most of his lands. John located his lands at nearby Scotschester along Hope Creek. In 1690 James purchased 2,500 acres from Robert Turner, another proprietor, and John bought from Turner a one-fourth share, less the land that James had acquired out of that fraction. James died about 1697 leaving John as his residual heir. Euphemia Johnstone was heir to her father's lands and in addition in 1701 she was allowed 3,050 acres as head rights for the passengers her father had transported. Both Johnstones served for periods on the resident Board and John was a signer of the surrender. John, who lived until 1732, sat in the Court of Common Right and for thirteen years in the assembly. He was also a member of Governor Burnet's council for two years during the royal period. William Aickman, another Barclay fractioner and a Scottish advocate, sold the lands he had taken up on the Raritan and at Barnegat to his agent, the well-known Scottish preacher, Archibald Riddell. The one-twentieth share that David Barclay held he bequeathed to Robert who sold it to John in 1687. Sir John Dalrymple entered the East Jersey venture through his association with Perth, Melfort, Mackenzie, and other friends of Barclay's in official circles. His lands were located in 1692 on the Raritan. Like Mackenzie he was a brilliant advocate, frequently on the wrong side. But after the Revolution of 1688 he rose to be lord advocate general of Scotland and for a short time joint secretary of state. Like Mackenzie, also, Dalrymple was helpful in paving the way for the Act of Union. He was created Earl of Stair by Queen Anne in 1703.[13]

Thomas Cooper was one of the London Quaker proprietors. He, too, was a member of the Meeting for Sufferings. In 1683 he was fined for refusing to contribute for the support of the militia and two years later his goods were distrained for refusing to pay a fine. Cooper never came to East Jersey but did attend the proprietors' meetings in London. In December 1683 he sold a half-share to Sir John Gordon of Durno, "knight and advocate of Scotland," but retained the remaining half. Thomas Boell, his agent, located his lands during the years 1685 to 1690. He accumulated 1,000 acres at Chingeroras, 500 at Passequenecqua, 500 at Barnegat Meadow, 250 at Wickatunk, 2,000 on the Millstone, and 2,250 between the Assinpink and the Raritan. He also received his lot and townland in Perth Amboy. Cooper signed the surrender in 1702 and died four years later.

Sir John Gordon of Durno, a cousin of Barclay's, subdivided his half-share rapidly. He retained 1/10 and conveyed 1/20 to each of his brothers, Sir Robert and George, a merchant of Edinburgh. He also sold 1/10 to Charles Ormston, a merchant of Kelso, 1/20 to Andrew Hamilton, 1/20 to David Mudie, a merchant of Montrose, 1/40 to David Falconer, a merchant of Edinburgh, 1/40 to George Mackenzie of Kildin, and 1/20 to Thomas Pearson, a mariner. George Gordon came to the province a few months before his death and Captain Hamilton, Mudie, Falconer, and Pearson also took up residence there. The others did not emigrate. Sir John himself was content to lend his name to the venture. Through William Laing, his agent, he took up 500 acres at Wickatunk. He died in 1692 bequeathing his fraction to Sir Robert. George Gordon, who spent three months in East Jersey before his premature death, as his brother's agent left small legacies to his "lifelong companions" in the province—his cousins John Barclay and Charles and Thomas Gordon, and Robert Fullerton, William Laing, and Dr. William Robertson. After his death his executors took up his land at Wickatunk. By 1692 Sir Robert Gordon owned a 1/5 share. John Barclay served as his agent in East Jersey and took up for him 240 acres at Barnegat and 1,500 acres on the south side of the Passaic.

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[13] Besse, *Sufferings of Quakers*, I, 353, 354, 356; *N.J.A.*, I, 529; II, 171, 177, 191, 193, 213, 387, 459, 488; *Stair vs. Bond*, 82, 84; Whitehead, *Perth Amboy*, 84-85; Insh, *Scottish Colonial Schemes*, 178, 234, 236; *D.N.B.*, *s.v.* Dalrymple, Sir John. Like Robert West of London, Dalrymple was arrested on suspicion of being implicated in the Rye House Plot. For countless references to individuals mentioned here, consult indices of *N.J.A.*, XXI; *M.P.E.J.*, and Whitehead, *East Jersey*.

John Barclay was also agent for Charles Ormston and obtained for him 120 acres at Barnegat and 1,000 acres "at the foot of Rockie Hill" on the Millstone. Ormston himself never came to New Jersey. George Willocks acted as agent for George Mackenzie of Kildin and took up his lands at Barnegat and on the Shrewsbury River "above Col. Morris iron works." In 1700 Mackenzie received 375 acres on Cranberry Creek "in full for his first and second dividends." David Falconer, who had invested £50 in the Scots proprietors' cargo of 1683, received through his agent, John Barclay, 250 acres on the Manalapan. His son John was in East Jersey a short time before settling in Sassafras, Maryland. Thomas Pearson, who brought his ship *Thomas and Benjamin* to East Jersey in the fall of 1684, thereafter regarded his residence as Perth Amboy. He located the 500 acres to which he was entitled and the 375 acres head lands for his servants on the South River. In 1685 he sold his fraction to John Bowne of Middletown. David Mudie, as we have seen, arrived in November 1685, and in two voyages he transported his wife, eleven children, and nineteen indentured servants. He located his 500 acres on the South River, but in the following year he sold his fraction including his Wickatunk dividend to David Violent, a fellow Scot. Mudie had also purchased a quarter-share from Minevard, which he sold. He continued to trade in land. Mudie was one of the original members of the resident Board and attended its meetings until his death in 1696. He sat on the council under Hamilton and on the Court of Common Right bench.[14]

Captain Andrew Hamilton came to the province in the summer of 1686 as the confidential agent of the proprietors and, after Campbell's return to England, was appointed deputy governor. Hamilton built up a large landed estate in East Jersey. He worked closely with William Dockwra, secretary and register of the province. Hamilton was entitled to 500 acres on his one-twentieth share, he received head lands for transporting his servants and was granted another 500 acres for his services by the proprietors. By 1703 he had amassed approximately 6,000 acres, which were concentrated on the south branch of the Raritan and along the Millstone and its tributaries. His widow continued to add to the family holdings after his death. Although he was a principal agent of the West Jersey Society and deputy governor of West Jersey, he acquired little land in that province.[15]

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[14] Besse, *Sufferings of Quakers*, I, 462, 474; Insh, *Scottish Colonial Schemes*, 234; Wodrow, *Sufferings of Church of Scotland*, II, 6; Barclay, ed., *Letters of Early Friends*, 349; Whitehead, *East Jersey*, 136-137, 432-433, 456-457; Whitehead, *Perth Amboy*, 47-48; *N.J.A.*, I, 530; XXIII, 190-191, 331-332; and indices of *N.J.A.*, XXI, and *M.P.E.J.* for references to individuals.

James Drummond, Earl of Perth, early sold a quarter-share to Sir George Mackenzie (Lord Tarbat) and a quarter to David Toshard (Lord Minevard). Later he sold a fourth-share to the Sonmans' heirs. In 1694, when Perth was in exile, his agents in the province took up his lands. His principal tract, one of 2,500 acres, was on Stony Brook. George Mackenzie, created Earl of Cromarty by Queen Anne, is remembered principally for his aid in bringing about the Act of Union between England and Scotland. He was a brilliant advocate whose independent attitude lost him more than one high position both before and after the Revolution of 1688. He soon sold his quarter-share in East Jersey to Lord Neil Campbell, the highly esteemed brother of the Earl of Argyle. Presumably Lord Neil intended to remain permanently in exile in East Jersey for he transported 52 indentured servants, "prisoners gifted him by the Council," the largest number transported except by Scot. Campbell, with Robert Blackwood, a merchant of Edinburgh, purchased a half-share from William Dockwra, and the partners hoped to profit from the investment through Campbell's presence in the colony. Campbell died in 1693 bequeathing his holdings to his son Archibald. Minevard, too, came to East Jersey but was disappointed and soon returned. What he expected may be gleaned from his agreement with John Campbell who engaged "to send a footman in velvet" to wait on him as a proprietor "when Parliament is [in session] in East Jersey." Before leaving, Minevard conveyed his quarter-share to David Mudie. Viscount Melfort, retained only a 3/8 share. In 1684 he sold a 1/8 share to John Campbell of Edinburgh whom he appointed his proxy and agent. Campbell, who came to the province in the same year, served on the resident board until his death in 1689. He was also a member of the assembly and sat on the bench of the Court of Common Right. As Drummond's agent Campbell took up his lands in several tracts, the largest of which, 1,000 acres, was on the south branch of the Raritan. After Campbell's death Governor Hamilton obtained 2,000 acres additional which Melfort was entitled to on his first dividend. Meanwhile Melfort had conveyed his other half-share to the Sonmans' heirs.[16]

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[15] *Stair vs. Bond*, 83; *N.J.A.*, XXI, 65, 67, 68, 110, 152, 153, 154, 156, 180, 206, 233, 278; *M.P.E.J.*, 77, 92, 104, 105, 122, 142, 147.

The most prominent of the non-Scottish proprietors was William Penn. He arrived in America in October 1682 and visited both West and East Jersey the following year. Early in March 1683 he attended the first council meetings under the proprietors and gave Rudyard helpful advice. Subsequently, since Penn was completely engrossed in Pennsylvania matters, his affairs in East Jersey were looked after by John Berry and later by other agents. Not until 1692 did John Barclay, then his agent, take up his lands on his first dividend. Penn was granted 500 acres at Wickatunk, 1,200 acres at Barnegat, and two vast tracts of 5,500 and 4,000 acres on the Millstone near the province line. He also received the town lots and townland in Perth Amboy to which he was entitled. Edward Byllynge, chief proprietor of West Jersey, was also an East Jersey proprietor. Since his claims to lands in dispute between the sister colonies were challenged by the East Jersey proprietors, it was good policy for him to be one of them. Byllynge attended several proprietors' meetings in London but took no active interest in East Jersey affairs. In March 1686 he sold his share to Dr. Daniel Coxe, the famous land speculator. Sometime before June 1687 Coxe sold it to Samuel Stancliffe, a London haberdasher who had some notion of establishing a settlement "as a refuge to poor banished Protestants." He appointed Peter Reverdy as his agent, and Barclay, who was friendly to the undertaking, instructed the resident board to lay out two tracts of 5,000 acres each for Stancliffe. In 1688 Reverdy applied for 10,000 acres on the Millstone and Stancliffe was vested with the ownership of two great tracts on the western side. The Revolution of 1688 intervened and nothing more is heard of Stancliffe's project. Dr. Coxe later regained control of the Stancliffe properties.[17]

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[16] *N.J.A.*, I, 528; XXI, 66, 68, 69, 126, 140, 150, 211, 234; *M.P.E.J.*, 77, 92, 94, 102, 126, 133-134, 200, 222; Whitehead, *East Jersey*, 240, 328; Insh, *Scottish Colonial Schemes*, 234; *Erskine of Carnock's Journal*, ed. Walter McLeod (Edinburgh, 1893), 154.

William Gibson was a noted London Quaker who was many times imprisoned, fined, and distrained of his goods. His name appears with those of Penn, Whitehead, Barclay, and others as a signer of epistles sent to the monthly meetings. Gibson was not only one of the Twenty Four Proprietors but a first purchaser of land in Pennsylvania with an interest of 500 acres. He never came to America but did attend the proprietors' meetings in London until his death in 1684. His widow and two children were his heirs. Thomas Boell, their agent, secured for them 500 acres at Wickatunk and 2,000 acres on the Millstone. In 1687, however, the Gibson propriety was purchased by Robert West and Thomas Cox and in 1689 Cox as trustee for West sold it to Dr. Daniel Coxe. In March 1692 when Coxe sold his holdings to the West Jersey Society he owned two East Jersey proprieties. One he referred to as "the West share," and this was the share he had purchased from Byllynge and later regained control of. The other, "Mew's share," he had purchased from the heirs of Gibson since it was one-half of Gibson's original undivided propriety. Coxe, with the good offices of Governor Andrew Hamilton, took up 7,500 acres to complete the first dividend on these two shares. In his "Account" Coxe valued his proprieties at £900 apiece and estimated their eventual rights as one million acres, a gross exaggeration. He boasted of having already arranged for dividends totaling 50,000 acres that included 30,000 acres from Thomas Budd's Indian purchases, 5,000 acres on Doctor's Creek, and 5,000 acres at Wickatunk in addition to the 7,500 acres he had already obtained. Actually the Wickatunk lands to which he was entitled came to only 1,000 acres. Coxe's "Account" was truly a document for prospective purchasers. It is of interest to note that he valued lands "ordinarily scituated" at £10 per hundred acres and land "well scituated" at from £20 to £30 per hundred acres, both about double the prevailing prices.[18]

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[17] *N.J.A.*, II, 31, 52, 202; XIII, 6-15; XXI, 113, 117, 199, 205, 316; *M.P.E.J.*, 169; "Letters of William Penn," *P.M.H.B.*, XXXIII (1909), 314.

Thomas Cox was a well-known London Quaker who had narrowly escaped seven years' banishment in 1655 when his prison ship had been captured by the Dutch. He was later imprisoned in Newgate for refusing to pay tithes. Cox disposed of his East Jersey propriety rapidly; in April 1685 he sold 13/40 to Sir Ewen Cameron of Lochiel and 7/20 to Dockwra. The remaining half-share he sold to John Backer, a London timber merchant. Cameron had married Jean Barclay, a sister of Robert, early in 1685, which explains his purchase. He never came to the province, but in 1687 his agent, John Barclay, obtained for him and Dockwra their share of Perth Amboy land, 400 acres at Barnegat, and approximately 2,000 acres at Blue Hills. John Backer was a London Quaker who had also suffered during the persecutions. He emigrated to East Jersey in 1687 and resided at Wickatunk until his death in 1693. He sat on the resident Board until 1690. Following the usual pattern he secured a Wickatunk allotment of 250 acres, 500 acres nearby, and 2,000 acres on Doctor's Creek, also in Monmouth County. Shortly after he left London, his half-share was seized by the commissioners of bankruptcy and Robert West purchased it from them. In 1693 West and Cox sold it to the West Jersey Society.[19]

Thomas Barker was also a London Quaker merchant who had been fined on numerous occasions for attending conventicles and for refusing to contribute to the support of the militia. Barker sold a half-share in December 1683 to Walter Benthall, also a London merchant and a Quaker. As a youth Benthall had been imprisoned in Newgate for refusing to take the oath and later, when a resident of the Barbados, he had been fined 2,000 pounds of sugar for refusing to swear when tendered the oath as constable. He returned to London in 1680 and spent the rest of his life there. Neither Barker nor Benthall ever came to East Jersey, but both gave close attention to proprietary matters in London. Barker was a signer of the surrender in 1702. Thomas Boell acted as their agent in the province and obtained for each of them their Perth and Wickatunk dividends and 2,000 acres on the west bank of the Millstone. In 1690 each was granted 2,750 acres between the Assinpink and the Raritan and 500 acres at Barnegat Meadow. Both were active land traders.

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[18] Fox, *Short Journal*, 359, 370, 371; Besse, *Suffering of Quakers*, 255, 303, 309, 437, 438, 443, 452, 459; Barclay, ed., *Letters of Early Friends*, 335, 342; *Stair vs. Bond*, 83; "Biographical Notice of Dr. Daniel Coxe of London," *P.M.H.B.*, VII (1883), 331; *M.P.E.J.*, 125, 167, 197; *N.J.A.*, II, 48, 49, 205; XXI, 120, 234, 316, 435.

[19] Fox, *Short Journal*, 96, 311, 313; Besse, *Suffering of Quakers*, I, 403-406, 437, 709; II, 407; Barclay, ed., *Letters of Early Friends*, 346; *Stair vs. Bond*, 83; *N.J.A.*, XXI, 69, 102, 105, 123, 124, 162, 189; XXIII, 23; *M.P.E.J.*, 162, 178.

Richard Mew, a London baker, was also a prominent Quaker. Like many other London Quaker proprietors he was a member of the Meeting for Sufferings. He was fined twenty marks in the case which gave William Penn lasting fame. He had purchased a fraction in West Jersey lands and in 1682 became one of the Twenty Four Proprietors of East Jersey. In 1685 he sold a half-share to William Dockwra and the other half-share to John Hancock in trust for the Sonmans family. Hancock had been a business associate of Arent Sonmans and the brother of Sonmans' widow. Hancock, who had purchased a fraction from Thomas Cox, died on the way to East Jersey. In March 1686 the resident Board allotted one of the Wickatunk tracts to Mew and Peter Sonmans revealing that the Sonmans heirs were in possession of the Hancock half-share.[20]

Hugh Hartshorne, another proprietor, was a London upholsterer. Although his brother Richard had been one of the first Quaker settlers in New Jersey, Hugh never came to America. Just before and just after his death in 1684 his propriety was sold to the Sonmans heirs. In 1766 one John Hunt laid claim to the Hartshorne share asserting that he had purchased it from a granddaughter of Hartshorne but nothing came of this suit. Thomas Hart, too, was a Friend and a London merchant. Like Barker he had resided for a time in Barbados. Not only was he a member of the Meeting for Sufferings but in 1684 he became a signer of the famous "award" recognizing the right of Byllynge to the government of West Jersey against the claims of Samuel Jennings, Thomas Budd, and other resident proprietors. He was a companion of Fox, Penn, and Whitehead. Hart preserved his East Jersey share intact throughout the proprietary period and bequeathed it to his sister, Patience Ashfield. Through his agent Thomas Boell, he located large tracts of 1,000 to 3,000 acres on the Rahway River, the Millstone, the Assinpink, at Barnegat, and in Middlesex County and received also the usual assignments of land to which the owner of a propriety was entitled.

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[20] Besse, *Suffering of Quakers*, I, 462, 428, 461, 462, 480, 481, 484; II, 316; Fox, *Short Journal*, 136, 310, 313, 333, 358, 359; *Stair vs. Bond*, 82; Barclay, ed., *Letters of Early Friends*, 348; *M.P.E.J.*, 95, 97, 98, 105, 126, 167; *N.J.A.*, I, 448; II, 204, 449; XXI, 65, 68, 122, 127, 188, 201, 203.

Robert West, "the informer," was a lawyer of Middle Temple. He came to the fore briefly in 1684 as one of those implicated in the Rye House Plot to assassinate Charles II. It was alleged that his apartment was a rendezvous of the conspirators, who kept their weapons there. West, who had turned informer, was freed on explaining that he had gathered the arms for use in East Jersey where he had a plantation! West has been described as a man of atheistical opinions "with a peculiar antipathy to clergymen," of pronounced republican views, and of scant personal courage. He was for many years associated with the London proprietors in an advisory capacity and in 1692, long after he had disposed of his propriety, they voted him a gift of 960 acres "for his good services done and to be done to the public concerns of the province." The particular service alluded to was that of aiding the proprietors in their defense of the right of government, which was under threat by the crown. In July 1683 West conveyed his propriety to Thomas Cox. Because of his knowledge of proprietary affairs, West had a hand in arranging the sales of shares among interested persons. In these transactions, as we have seen, he was on more than one occasion joined by Cox, who was sometimes designated "trustee for West."[21]

Two Irish Friends interested in Quaker colonization became proprietors of East Jersey. Robert Turner was a wealthy Dublin linen draper and a close friend of William Penn. This friendship, which included Samuel Claridge and Anthony Sharp, dated back to as early as 1669. Like other Quakers in Ireland, Turner was subjected to much abuse during the years 1657 to 1683. Indeed he was molested more than any other Irish Quaker. Money was taken from his till with annoying regularity by the tithe wardens for the maintenance of the minister and he was imprisoned frequently for keeping his shop open on religious holidays. Small wonder that Quakers of means like Turner, Sharp, Claridge, Sleigh, and Roberts gave whole-hearted assistance to Friends' colonization. Turner owned a fraction of a share in the West Jersey venture and himself organized the settlement of the Irish Tenth (Gloucester County). He was a first purchaser of land in Pennsylvania with a large holding of 5,000 acres. In 1682 he became one of the Twenty Four Proprietors of East Jersey. He finally decided to settle in Philadelphia and resided there until his death in 1700. He separated from the Society of Friends on the Keithian issue and eventually joined the Anglican Church. He was three times elected to the Pennsylvania council, served for a time on the resident Board of Proprietors of West Jersey, and was a member of the West Jersey assembly. Turner was a shrewd businessman and was one of a very few to make money on his East Jersey investment. In 1685 he began to sell his propriety in fractions, and by 1690 he had disposed of his landed interests there. He sold half his propriety to John Throgmorton and his twelve associates who were with one exception "old settlers" and residents of Middletown. Seven of the thirteen held a 1/10 interest each and six a 1/20 interest. In 1688 this group located its first dividend of 5,000 acres at the headwaters of Crosswicks Creek in Monmouth County. Turner then sold a quarter-share to John Johnstone and the remainder of his propriety in small fractions to other settlers.

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[21] Fox, *Journal*, II, 211; Fox, *Short Journal*, 308, 318; Barclay, ed., *Letters of Early Friends*, 347, 349; Whitehead, *East Jersey*, 178; *Stair vs. Bond*, 83; Robert Ferguson, *The Plotter* (Edinburgh, 1887), 75, 155, 156; *N.J.A.*, II, 49; XXI, 55, 98, 120, 122, 123, 159, 171, 197, 202, 203, 276; *M.P.E.J.*, 2, 97, 98, 126, 138, 167, 178, 186, 188.

Thomas Warne, the other Irish member of the Twenty Four Proprietors, sold a third of his share to Samuel Claridge and a third to Anthony Sharp, both Dublin merchants. Claridge sold a quarter of his interest to Thomas Sisson of Dublin and another fourth to William Bingley, a cloth merchant of London. Warne, who had experienced harassment from the tithe wardens, settled in Monmouth County. He sat on the resident Board and on the bench of the Court of Common Right and was a signer of the surrender. He died in 1722 leaving a considerable estate, which included "seven Negro slaves valued at £120." As a member of the Board of Proprietors Warne was able to locate his lands to advantage. By 1695 he held tracts of more than 1,000 acres each at Wickatunk, Toponemus, Barnegat, and elsewhere. He resided at Perth Amboy during most of the period.

Anthony Sharp was the most distinguished Irish Friend of this era. He left Gloucestershire to embark upon a huge woolen export business in Dublin. As a Friend his goods and possessions were many times distrained. Sharp was the mainstay of the Dublin meeting, the most important in Ireland. Like Turner, Sharp was the author of several religious tracts. Despite his religious beliefs he was admitted to membership in the Weavers' Corporation without taking the oath. After James II issued his Declaration of Indulgence Sharp and his friend, Samuel Claridge, served as aldermen of Dublin. Sharp had purchased a propriety in West Jersey in 1677 which his nephew developed for him. He never came to New Jersey; indeed, it was not until 1698 that Robert Turner, acting as his agent, obtained for him 5,800 acres of unappropriated land on his East Jersey fraction. Samuel Claridge had purchased one third of Warne's share but retained only a 1/6 share. His dividend of approximately 550 acres in East Jersey was taken up for him by Robert Turner in 1698. Sharp was also a first purchaser of Pennsylvania with a substantial purchase of 5,000 acres. Little is known of Thomas Sisson except that he purchased a 1/12 share from Claridge and later sold it to Sharp. Like Sharp and Claridge, William Bingley never came to East Jersey. He too purchased a 1/12 share from Claridge. Bingley had won distinction as a Friend in the ministry and on the occasion of Fox's death he was one of five Friends including Penn who gave testimony at the burial at Bunhill Fields. It is not surprising to find Bingley associated with Penn and Whitehead in Francis Bugg's famous cartoon, "The Quakers Synod," which portrayed the Yearly Meeting of 1696. In 1692 through the agency of John Barclay, Bingley took up a grant of 840 acres along the Millstone in Middlesex County.[22]

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[22] William Penn, *My Irish Journal, 1669-1670*, ed. Isabel Grubb (New York, 1952), 26, 55; William Stockdale, *Great Cry of Oppression*, 8, 20, 43, 55, 84, 85, 105, 106, 213-215, 253; Isabel Grubb, *Quakers in Ireland, 1654-1900* (London, 1927), 40-59; Besse, *Suffering of Quakers*, II, 454, 460, 466, 471, 475-477, 483, 484; *Stair vs. Bond*, 86; *M.P.E.J.*, 2, 69, 198, 227, 228; *N.J.A.*, I, 530; XXI, 56, 62, 101, 116, 225, 234, 235, 251, 256, 261; XXIII, 491; Barclay, ed., *Letters of Early Friends*, 349; Arnold Lloyd, *Quaker Social History* (London, 1950), frontispiece, 42; Fox, *Journal*, II, 369-371; Fox, *Short Journal*, 327.

This account of the participation of the Twenty Four Proprietors in New Jersey reveals a number of instances where the owners lost interest in the whole project. The London and Irish Quakers dropped out early since it was obvious that Quaker activity had shifted to Pennsylvania. The Scottish Quakers, stimulated by Barclay, were not attracted once the persecutions ceased. The Scottish proprietors' group ceased its activity in less than two years when it was evident that there was little interest in Scotland in going to New Jersey and, in fact, little market anywhere for East Jersey lands. Perth, Melfort, and Mackenzie had little time to devote to East Jersey affairs and, indeed, forgot about their investment when they learned that it would pay off little, if anything. Thomas Warne was the only proprietor who actually settled permanently in East Jersey. Though he dealt in lands all his life, neither he nor his son Stephen laid the ground for any great fortune. Men like Rudyard, Lawrie, Hamilton, and Dockwra were active in promoting lands but none of them succeeded to the point of amassing large wealth from their efforts. John Throgmorton and his twelve associates, who purchased from Turner, experienced no great success. The buying and selling of East Jersey land was, then, largely the activity of individuals wishing to purchase or sell a lot in one of the villages or a farm in the country. Occasionally, as in the Carteret period, New Yorkers speculated in East Jersey lands, but here, too, there were no notable successes.

CHAPTER XII

Hamilton's First Term

Andrew Hamilton was a great figure in East New Jersey during the remainder of the proprietary period. He had come to the province in the late summer of 1686 as the confidential agent of the proprietors. He was to serve long terms as deputy governor and governor both of East and West Jersey and he was their last proprietary governor. He was called upon by William Penn to act as deputy governor of Pennsylvania from 1701 to 1703, and he was in charge of the colonial postal service from 1699 until his death in 1703. Hamilton possessed a fine sense of tact and judgment, but as the representative of a none too popular proprietary government his position became increasingly difficult. Furthermore, during his entire period of service, proprietary government in the Jerseys was being challenged by the crown. With Hamilton's advent a new chapter opens in the political history of East Jersey.

Before discussing Hamilton's first administration it is necessary to consider two matters of transcending importance to the Twenty Four Proprietors: the status of the right of government which was brought into question by the royal authority, and the controversy with the Duke's province of New York over New Jersey's right to free ports. These matters are interrelated.

In January 1684 there was some correspondence between Sir John Werden, secretary to the Duke of York, and the lord register of Scotland, Sir George Mackenzie, an East Jersey proprietor, as to whether East Jersey should again be brought under the government of New York. In August of that year Mackenzie, Perth, and Melfort, the most politically influential of the Twenty Four Proprietors, in a letter to Governor Thomas Dongan of New York stated that they had discussed this matter with the Duke's commissioners in London and had convinced them that they ought not yield to such a proposal. Moreover, they had received assurance that none of the proprietary rights, either with respect to government, free trade, navigation, or free ports, would be disturbed.

They found the Duke "to abhorr the thoughts of allowing anything to be done contrary to what he hath past under his hand and scale," referring especially to the Duke's last grant of government in 1683. They expressed the hope that Dongan would attempt nothing contrary to his master's wishes and assured him that the proprietors would not be wanting in cooperating with him for the mutual good of both provinces.[1]

On August 26, the Duke himself wrote Dongan in New York to the effect that his commissioners were considering carefully recommendations for the welfare of New York. Meanwhile he had learned that "some of your neighbors" under color of grants from himself were endeavoring to interfere with navigation on the Hudson. He directed Dongan to permit no innovations in the trade to Albany, and urged him to collect sedulously all customs and other duties so necessary to support the public charges. If, for instance, Dongan learned that the inhabitants of East Jersey had found a roundabout way of trading with the Indians about Albany, he must prevent it. Dongan had written Werden of his exchanges with William Penn on learning from John Baker of Elizabethtown that Penn was considering buying up the Nicolls patents there. He was alarmed lest Penn intended a trade foray on New York through East Jersey. He had told Penn, he wrote, that he had received the valley of the upper Susquehanna as a gift from the Indians and hoped that Penn would not bear him ill-will for accepting it. Werden warned Dongan that neither Penn nor the inhabitants of East Jersey should be allowed to circumscribe in any way New York's peltry trade, observing that Penn "is very intent in his owne interest in those partes." Indeed in April 1684 Dongan and his council had met with a delegation of Minisink Indians at Fort James in New York City and had assured them that none of their lands would be taken from them whether by New York or New Jersey claimants, but would be purchased from them. The Minisink Indians claimed that some of their territory about the upper Delaware lay in Ulster and Orange counties, New York, and some in the present Sussex County, New Jersey. Dongan invited the chiefs to accompany representatives from New York and East Jersey to the upper Delaware when the dividing line between the provinces was run.[2]

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[1] *N.J.A.*, I, 463.

Again, in August, Werden urged Dongan to safeguard the Duke's interest on the Susquehanna, "soe nothing more may goe away to Mr. Penn or either New Jerseys." Both of them, he continued, "are apt enough to stretch their priviledges as well as the people of New England have beene, who now probably be reduced to reason by prosecution of the Quo Warrento w'ch is brought ag'st y'm." A year later, James, as king, was to bring quo warranto proceedings against the proprietors of the Jerseys, forcing them to defend their claim to the right of government. Finally Werden advised Dongan not to permit East Jersey to encroach upon Staten Island. He should specify that lands there could be purchased only by subjects of New York and insisted that "whosoever buys land on y't island, it being under yo'r governm't, he must be lyable (as well as others) to the laws thereof." East Jersey had not relinquished her claim to Staten Island.[3]

In February 1685 Dongan replied to the Scotch proprietors. What he had written to the Duke and his commissioners, he stated, was entirely motivated by his concern for the Duke's interest. Had Perth been in his place, he wrote, he would certainly have emphasized to the Duke the great inconvenience of having two governments on the same river, especially since East Jersey was nearer the sea lanes. Staten Island, purchased from the Indians by his predecessor, Sir John Lovelace, and now peopled by two hundred families, had been disturbed by printed material distributed by the East Jersey proprietors. Moreover, since he knew that some of the proprietors were in favor of it, he had done nothing amiss in informing the Duke of the advantages of regaining East Jersey. Unlike Andros before him, however, he had never insisted that ships making for East Jersey make entry at New York. It would not be his fault if a spirit of concord was not maintained between the colonies.

Meanwhile Dongan had informed Werden of Perth's "very angry letter" and expressed the hope that Werden in handling the matter would point out that if vessels were permitted to dock at Staten Island it would not be possible to prevent goods from crossing to Perth Amboy. Dongan asked Werden to examine the Duke's last patent to East Jersey, that of March 1683, for confirmation that shipping passing Sandy Hook was required to make entry at New York. If the Duke could not retrieve East Jersey he must insist upon clear title to "the Hudson River and all its arms," thus voiding all claims to Staten Island and relieving the inhabitants there of anxiety respecting their status. As to the Indian trade, the solution was to run the boundary line between the Hudson and the Delaware, then forbid the Indians from going into East Jersey. If the line were not soon determined, East Jersey would claim westward to the South Seas, as Connecticut had done. The time had come to put an end to these claims.[4]

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[2] *ibid.*, 437-443, 457, 458-459.

[3] *ibid.*, 476.

In May 1685 pressure came from a new quarter. Mayor Gabriel Minvielle and his aldermen of the city of New York, in a message congratulating James upon his accession to the throne, pleaded with Werden to inform the King that since the Jerseys and the Delaware basin had been separated from New York the trade of New York City had diminished by a third and that the number of inhabitants, buildings, rents, and, likewise, His Majesty's revenues had suffered proportionately. If these areas were reunited with New York, trade would increase and, in consequence, His Majesty's revenues. Since it was well known that James always had a concern regarding the income derived from his propriety, it is not surprising that prompt action was forthcoming.[5] On July 15, three days after Minvielle's letter was received, the lords of trade and plantations recommended to the King's council that the attorney general be authorized to enter writs of quo warranto against the proprietors of East Jersey, West Jersey, and Delaware, especially if he found these plantations of prejudice to His Majesty's customs "w'thout a nearer & more Imediate Dependence on yo'r Ma'ty." James immediately transmitted this recommendation to the attorney general, Sir Robert Sawyer, instructing him to issue writs of quo warranto, if he should find cause. In August writs were served upon the proprietors of East and West Jersey by Edward Randolph, now secretary and register of "the Province of New England," and similar writs were served upon Connecticut and Rhode Island. In April

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[4] *ibid.*, 483-486.

[5] *ibid.*, 491-492.

1686 an order in council instructed that the prosecution of the writs proceed, and the colony of Maryland was added to the list.[6]

The drive to eliminate the proprietary and other nonroyal colonies and to consolidate them under the crown moved swiftly. In June 1686 Sir Edmund Andros was appointed "governor of Massachusetts, the Province of New Hampshire and Maine, and the Narragansett Country," henceforth known as "the Territory and Dominion of New England in America." He was empowered, with the assistance of the council appointed by the crown, to make laws and ordinances not inconsistent with the laws of the realm. Andros arrived in Boston on December 20, 1686, and on January 12, 1687, he annexed Rhode Island to his government and on October 31, Connecticut.[7]

Meanwhile Dongan in New York continued his plea that the Jerseys be absorbed in New York. He reiterated his arguments, in February 1687, that East Jersey, with better lands, was enticing settlers from New York, and that, with no customs dues, would soon lure her merchants there also. Indeed, in 1686 several ships had entered East Jersey laden with goods. Since the two Jerseys together did not make use of £1,000 of goods in two whole years, the surplus reached New York without paying duty. Moreover, beaver and other peltry were still being brought into East Jersey by the New York Indians who did not care how tedious the journey was so long as they obtained the goods they needed, goods more cheaply priced since they paid no excise. Moreover, smugglers in defiance of the navigation laws readily obtained goods in East Jersey since ships broke bulk there before taking the remainder to New York. Dongan asked authority to build a small fort at Sandy Hook where, because of the narrowness of the channel, the entire seaborne commerce could be controlled. The proprietors, he argued, should find it to their advantage to unite with New York since the charges of government in East Jersey absorbed their entire income from quitrents, the only source of revenue. Dongan regarded the whole bay as part of the Hudson River but East Jersey, he commented, claimed an equal use because Sandy Hook Bay touched her territory for a distance of eighteen miles. West Jersey, as part of the same peninsula, should also be annexed, Dongan urged. Moreover, it was important that all overseas commerce should flow through a port able to defend itself in time of war. Dongan believed that the inhabitants of the Jerseys wished to be under New York because they had been so formerly.

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[6] *ibid.*, 501-502; R. N. Toppan and A. T. S. Goodrich, eds., *Edward Randolph; Including His Letters and His Official Papers, 1676-1703* (Boston, 1899), IV, 37.

[7] Pomfret, *West New Jersey*, 159.

Meanwhile, in the colony there were "incidents" relative to trade and navigation. William Dyre in January 1682 had been appointed collector of the customs for Pennsylvania and New Jersey by the lords commissioners of the treasury, and it was his duty to report violations. In April 1685 he qualified before Lawrie as collector for East Jersey in conformity with the proprietors' instructions that the navigation acts be enforced there. Dyre had been the Duke's customs officer in New York, first appointed in 1674, and was later mayor of New York City. He was the son of the famous Mary Dyre, the Quaker, who went to the scaffold in Boston for her religious beliefs. In March 1685 when the *Thomas and Benjamin* arrived from Montrose, Scotland, with a cargo of woolen stockings and gloves and 600 yards of Irish linen picked up in Ireland, Dyre charged a violation of the act of 1660 that forbade the importation of goods not belonging to Englishmen. Thomas Pearson, her master, obtained the services of Isaac Swinton, a lawyer, then secretary of the province of New York. He admitted only that the ship and her cargo had not touched an English port en route from Scotland, a minor infraction of the Staple Act of 1663. Since the main mission of the ship was the transportation of Scottish colonists, one would expect little sympathy in East Jersey for Dyre's charge. The trial was held in the Court of Common Right in May 1685 with Lawrie as presiding justice and Sandford, Price, Kingsland, Lyon, and Dennis, all councillors, on the bench. Dyre, feeling that his chances of gaining a favorable verdict were hopeless, did not even appear in court. Swinton, his old enemy, as attorney for the defense moved successfully that a *nolle prosequi* be entered.[8]

On June 30, 1685, Dyre appeared before the court at Perth Amboy, on another case. The *Dolphin*, owned by Peter Coit, an East Jerseyman, had discharged a cargo of European goods at Elizabethtown and had taken aboard a cargo of East Jersey commodities. Dyre examined her records and found only one Englishman in her crew instead of the three-fourths required by the act of 1660. He seized the ship for trading without producing a certificate or making entry. The master, Thomas Holt, railed at Dyre, condemned the customs, and appealed to James Emott, deputy secretary of the province. Lawrie then signed a pass for Holt, but Dyre pursued the ship and apprehended her in Achter Kull. He then filed an information. The court, then in session to hear arguments on the *scire facias* case against Berry and Hartshorne, was lacking a quorum. Because Dyre and the owner, Coit, demanded that the case be heard, Lawrie obligingly convened the only special court of the post-Carteret period. The commissioners impounded to hear the case were Justices Campbell and Lyon, the erstwhile litigants Berry and Hartshorne, and John Hance, who was present as a friend of Hartshorne! Berry, drafted as president, gave the jury, all Elizabethtownmen, the charge. The verdict went to Coit. When Dyre refused to pay the costs of the suit, £4 3s., Emott prepared and Berry signed an execution to seize Dyre's horse, valued at £3, and to imprison him, probably to prevent his pursuing the *Dolphin.* Dyre immediately wrote the commissioners of customs attacking the proceedings of the special court and the jurymen, some of whom he claimed had bought goods brought by the *Dolphin.* He declared that an appeal to Lawrie would be useless. The commissioners transmitted the letter to the King's council which viewed the affair as another example of the inadequacy of proprietary government. This, added to the charges already brought by Edward Randolph against the proprietaries, had its influence in leading King James, in August 1685, to bring quo warranto proceedings. Though not pressed at once against "the Corporation of East New Jersey," the King in council in April 1686 directed that the action be begun against "a country which ought to be more dependent on his Majesty."[9]

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[8] Edsall, *Jour. of Court of Common Right*, 133-135, 193-194.

With the writ of quo warranto hanging over them, the proprietors, in the spring of 1687 felt constrained to petition the King for a reiteration of their rights, especially the proviso in their several grants guaranteeing them the free use of all waters leading into the province. They pled that they had spent large sums in promoting settlement and in building the town of Perth Amboy with its harbor installation. They claimed that they had scrupulously observed the trade and navigation acts, yet Governor Dongan, as late as November 22, 1686, had seized a vessel at Perth and forced her to enter at New York. This infringement, they protested, would have the effect of discouraging settlement and would lead to the loss of their capital investment. This petition was referred to the lords of trade, who recommended that it be sent to Dongan for his opinion. But the King's council, undoubtedly influenced by Perth and Melfort, advisers to James, dealt leniently with East Jersey. Dongan was instructed that, as formerly, all vessels coming up the bay must enter at New York, but that, if bound for Perth Amboy, they might proceed there directly. East Jersey, however, must accept a customs agent at Perth Amboy to collect His Majesty's customs. The Earl of Sunderland, secretary of state, thereupon instructed Matthew Plowman, collector at New York, to station an officer at Perth Amboy.[10]

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[9] *ibid.*, 135-136, 198-200. On October 25, 1685 Penn wrote that there was trouble between Dyre and Lawrie, which had drawn a quo warranto. (Penn Mss, Blumhaven Library, Philadelphia)

The "Representation of the case of the Province of East Jersey, together with their proposalls, June 1687," which reached the King's council on August 14, had some bearing on the decision. The proprietors argued that they had expended more than £12,000 on East Jersey and were steadily engaged in purchasing the soil from the Indians. But they valued the propriety not only for the lands but for the right of government and the free use of waters for navigation and trade, confirmed to them on March 14, 1683. Assuming the King's grant to be inviolable, they had spent large sums in transporting several hundred settlers from Scotland, thus establishing an English Plantation without diminishing the population of England. As yet they had received no return from their investment. Other colonies under quo warranto had not been disturbed, but in East Jersey there was already interference with navigation and trade. They wished to protest also the revival of an old instruction to Andros, in force before the King's grant of 1683 requiring all ships bound for New Jersey to enter at New York. Actually no customs could be imposed on East Jersey unless agreed to by the assembly.

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[10] *N.J.A.*, I, 540, 543.

East Jersey's refusal to pay customs certainly did not give the governor of New York the right to invade their right of port which was "but a matter of mere property, the abuse of which is no otherwise punishable than according . . . to the Act of Navigation." It was no franchise revertible to the crown by judgment of quo warranto. The proprietors should not be deprived of this right before an action of legal eviction or a voluntary surrender of it. Though it had been a policy of the crown to encourage infant plantations by granting free ports and free trade, the proprietors were quite willing to submit to the same customs duties as existed in New York. But trade would desert both East Jersey and New York if all the colonies did not impose uniform duties.

The proprietors stated that they would surrender the right of government dutifully if the King deemed it best to place all the colonies under his more immediate administration. In that case they hoped that they would be granted all reasonable privileges for preserving their estates in East Jersey. To prevent their total ruin they requested, first, that East Jersey not be annexed to New York but made a distinct government or be joined with West Jersey, since they had numerous proprietors in common. Second, they asked that the King permit a number of them to sit on the governor's council. Third, they desired that their court system would be maintained and, "to prevent ill men from oppressing their neighbors," that appeal should lie with the King alone. Asserting that they had always complied with the trade regulations, they requested that they be permitted to retain free ports with an officer of the crown in residence to collect the customs and enforce the navigation laws. Finally, they asked that they retain their sole power of making land purchases from the Indians, of appointing officers to issue and record surveys and patents, and of collecting quitrents; in other words, they asked to enjoy "a particular jurisdiction for such purposes as Lords of Mann'rs [Manors] have here in England, and that the King's governour may not intermeddle in these matters." The policy of the crown of holding writs of quo warranto over the heads of the proprietors in order to secure a voluntary surrender was highly successful. On July 12, 1687 the King referred the proprietors' proposals to the lords of trade who would meet with representatives of the proprietors, then report their findings and recommendations to the King.[11]

On April 30, 1688, nearly a year later, fifteen proprietors headed by Perth, Melfort, Barclay, and Penn, because the King "for weighty reasons of state" wished to regain territories and jurisdictions that he had once granted away, signed a document of surrender. No reservations were specified in this draft of surrender, but undoubtedly the lords of trade intended to grant certain of the requests of the proprietors. It is presumed that the proprietors of West New Jersey concurrently surrendered their rights of government under the same terms. In a later memorandum from the board of trade to the lords justices concerning the final surrender, dated in October 1701, it is stated "that many inconveniencies and disorders having arisen from their pretence of right to govern, the proprietors of East New Jersey did surrender their pretended right to the late King James, in the Month of April, 1688, which was accordingly accepted by him." The intervention of the Glorious Revolution of December 1688, however, favored the proprietors with an unexpected moratorium of twelve years.[12]

Andrew Hamilton's first term as governor from 1687 to 1692 was interrupted by these external events. Moreover, in the province he was compelled to meet emergency after emergency. On March 12, 1687, he convened the council for the first time since the end of December and read the commission he had received from the proprietors as Neil Campbell's deputy. Those present, Gawen Lawrie, Richard Townley, Samuel Winder, and John Johnstone ordered Secretary Emott to enter a copy in the public records and proclaim it in each county.[13] Hamilton did not call another council meeting until November 30. Since he knew that the proprietors had petitioned for a union of the Jerseys under the crown, there seemed to be no point in council or assembly meetings. In November, James Graham, the new collector of customs at New York, informed the East Jersey council of an important letter to Governor Dongan, dated August 13, from the lords commissioners that clarified relations between the two provinces. All ships bound for the port of Perth Amboy might legally enter there provided that the same customs were paid as if the vessel had landed at New York. Graham nominated Miles Forster, son-in-law of Gawen Lawrie, as subcollector at Perth Amboy. The council then met, unanimously approved this commission, and ordered it proclaimed in each county.[14]

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[11] *ibid.*, 535-539.

[12] *N.J.A.*, II, 26-27; Carlos Godfrey, "When Boston was New Jersey's Capital," *N.J.H.S. Proc.*, new ser., LI (1933), 4-5; Leaming and Spicer, 604-605; Pomfret, *West New Jersey*, 159-160.

[13] *N.J.A.*, XIII, 174.

Had Hamilton known in April 1688 that Andros had been given a commission to annex the Jerseys to the Dominion of New England or that the proprietors had offered to surrender the governance of East Jersey to the crown, there might have been no assembly called in May, his first after eighteen months in office. Meanwhile relations between England and France had so deteriorated that war between them appeared inevitable. In 1687 Governor Dongan received an instruction from the crown to prepare New York against an invasion by the French and their Indian allies, particularly against Albany. He was empowered to call upon East Jersey and other neighbors for assistance. Actually war did not break out until 1689, following the downfall of James II, but in 1686 and 1687 it seemed imminent. Hamilton and his council, since only the assembly could impose taxes, had to call an election of representatives.

The first Hamilton assembly met from May 14 to May 24, 1688, and passed five measures in addition to a revenue act. The first order of business of the eighteen members was to choose Richard Hartshorne as speaker. The other deputies were John Parker and Jeffery Jones for Elizabethtown; John Curtis for Newark; Samuel Dennis and Samuel Moore for Woodbridge; John Langstaff and George Drake for Piscataway; Eliakim Wardwell and Judah Allen for Shrewsbury; John Throgmorton for Middletown; William Haige and Benjamin Griffith for Perth Amboy; Peter Hessels and Enoch Michielson for Bergen; William Lawrence for the outplantations of Bergen; John White for the Raritan River outplantation; and Richard Berry for New Barbados. The electoral district was still the township and the rural settled area instead of the county. There is no explanation why the Newark town meeting chose only one representative. Hamilton's assembly, despite a lapse of meetings, was a seasoned one. Parker, Curtis, Drake, Hessels, Allen,

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[14] *ibid.*, 174-175.

Richard Berry, and Hartshorne carried over from the Lawrie-Campbell assembly. Parker, Curtis, Moore, Dennis, Michielson, and Hartshorne had sat in the Rudyard assembly, while Dennis and Michielson were real veterans, for both had been members of Governor Carteret's assembly of 1675. The council, consisting of John Berry, Richard Townley, Thomas Codrington, Isaac Kingsland, Samuel Winder, and James Emott, secretary, was unchanged. Only David Mudie, who had returned to Scotland, and John Johnstone, the "old settler" of Middletown, who was in his last illness, were missing.[15]

The assembly took its time in dealing with the governor's request for a levy to assist New York for it had never taken kindly to any kind of tax measure. It first insisted that the five acts adopted in the Campbell assembly be put into force and that an act of oblivion be passed forgiving any errors, mistakes, and misunderstandings arising from this delay. The representatives then asked to examine the correspondence sent by the governor of New York; then requested a conference of three of the council with six of the deputies. Samuel Winder, Thomas Codrington, and John Berry represented the council. At first the deputies were truculent, questioning the need for any action since no direct request had been made by the crown or by the proprietors. Berry insisted that the measure was essential, if only for the defense of East Jersey. On May 18 the deputies' committeemen stated that at most only £500 could be considered, "the Country being pore." On May 22 the deputies came to the heart of the matter—who and what should be taxed. In a committee of the whole, Hartshorne, the defender of the rights of the inhabitants, demanded that all proprietary lands be taxed, settled or unsettled. Hamilton stated that to do so would be a violation of the Concessions specifically exempting unimproved proprietary lands. After a hot debate Hamilton offered, on his sole responsibility, to accept a tax on proprietary lands that had been purchased from the Indians but not yet settled, on condition that this provision not be placed in the act since it would compromise the Concessions. The deputies, recognizing the governor's good faith, relented and agreed that unsettled proprietors' lands not be subject to the tax. Hamilton was formally relieved of his promise, and the act was adopted.

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[15] *ibid.*, 175-176; Newark Recs., 101.

The act, "A Tax to Withstand Invasion" levied a tax of 10d. per head on all males above sixteen years of age, and 1d. per pound on all lands, the proprietors' unsettled lands excepted, and on all personal property. For the purpose of the tax, lands were valued at £10 per one hundred acres. Grown oxen were valued at £4, cows and horses at £3, swine at 10s., wheat at 4s. per bushel, Indian corn at 2s., butter at 6d. per pound, pork at 2 1/2d., beef at 2d., and tobacco, at 2 1/2d. Three commissioners were appointed to levy and collect the tax in each county. By June 30 all persons must submit an appraisal of their estates which the constable would transmit to the commissioners. By November 30 the commissioners would pay the receipts to designated "treasurers." The treasurers chosen were Benjamin Griffith for Middlesex, Lewis Morris for Essex, Nathaniel Ward for Newark, Samuel Edsall for Bergen, and John Inians for Somerset, a newly created county.

In any district, by agreement of any two commissioners, a warrant could be issued to collect from any defaulter or recalcitrant by distress of goods and chattels. The treasurers would then deliver to the governor all goods, wares, merchandise, and money collected by them and would receive a commission of 8 per cent of the taxes they had collected.[16]

The assembly also passed three bills needed to care for a growing colony. It was agreed without objection to create Somerset County from the western portion of Middlesex. This was done, in the language of the act, because the upper Raritan was "settled by Persons whom in their husbandry and manuring their Land, forced upon quite different ways and methods from other Farmers." The eastern boundary of the new county was Bound Brook and its branch, Green Brook, which followed the contours of the Blue Hills. The western and southwestern boundaries reached "to the uttermost Line of the Province." At this time Somerset had few settlers, but New Brunswick was to grow up on the site of John Inians' ferry which crossed the Raritan five miles below its junction with Bound Brook.

The assembly readily acceded to the establishment of a monthly court of small causes at New Hackensack to serve the outplantations of Bergen, and another in Essex County on the Hackensack River to serve the inhabitants of Aquikanank and New Barbados. The first would be held at the house of the former councillor, Lawrence Andress; and the second at the house of Dr. Johannes on the Hackensack River. These petty courts like the others throughout the province would settle differences among parties in cases where less than 40s. was involved. The assembly also empowered the inhabitants of New Barbados and Hackensack to build pounds, the charges for their erection to be borne by the inhabitants. Another act altered a statute of 1682 which forbade persons from cropping both ears of livestock, thus destroying the owners' brands.[17]

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[16] Leaming and Spicer, 306-309.

To relieve the work of the sheriffs, an act was passed permitting a sheriff or his bailiff to deliver a summons for jury duty at a man's house instead of contacting him personally, provided the service was made four days before the meeting of the court. Finally, in order to stop persons from taking cases involving less than 40s. directly to the sessions courts, the assembly ruled that the county court would not allow the plaintiff costs unless he could prove to the justices that the defendant had refused to appear before the court of small causes or had refused to submit to the judgment "of two Indifferent persons of the Neighborhood." The messenger of the monthly court might arrest defaulters against whom judgments had been rendered, and the sheriff of the county might imprison such persons until debts, damages, and court costs had been paid. Before adjourning, the assembly turned over copies of all bills enacted into law for the secretary, James Emott, to transcribe and send to each county.

The general assembly adjourned on May 24, 1688, but did not meet again until September 1692. The period of the interregnum under the Dominion of New England was about to begin and its authority superseded that of the proprietary government. But before Andros' commission annexing the Jerseys was proclaimed on July 10, Hamilton held one meeting of his council, attended by Townley, Winder, John Johnstone, and the faithful Emott. A commission of the proprietors, dated August 18, 1687, appointing Hamilton deputy governor for the term of two years was read, thus replacing Neil Campbell permanently. The council voted to proclaim this event throughout the province. But the new incumbent was soon to learn that he was no longer deputy governor of East Jersey.[18]

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[17] *ibid.*, 304-305, 310, 311-312.

Governor Andros and several of his council, accompanied by Edward Randolph, now secretary of the Dominion, on June 30, 1688, took over the government of New York. On August 11, he formally seized that of East Jersey at Elizabethtown and on August 18, that of West Jersey at Burlington. All went according to plan, for Randolph informs us that all the officials of the Jerseys were continued in office, "to their high content" and that "all shewed their great satisfaction in being under His Ma'ties immediate Gov't." Nevertheless East Jersey underwent great modifications. Hamilton, until he returned to Great Britain functioned as a judge at the Middlesex court, presiding at quarter sessions and common pleas. Associated with him on the bench were John Campbell, John Inians, Robert Vauquellin, John Bishop, and Samuel Hale, all of whom except Vauquellin had been or would become justices of the Court of Common Right. Emott acted as clerk of the Middlesex and Essex courts and was licensed to practice in all courts in the Dominion. Winder, who had succeeded Sandford as attorney general in 1686, moved to Boston and died shortly after. He had been one of East Jersey's most active lawyers in the Court of Common Right. Captain John Palmer, former member of the council and also a justice of the Court of Common Right on his return from England in 1688 became one of the Andros' most trusted councillors. Eventually he became chief judge of the superior court of the Dominion. The judicial organization of the Dominion superseded that of the province. This meant the substitution of a court of quarter sessions and an inferior court of common pleas for the county court of sessions established in 1682-1683. It also meant the disappearance, until October 1692, of the Court of Common Right and the Court of Chancery. The Court of Common Right functioned for the last time on May 17, 1688. The Dominion had its own complex system of central and appellate tribunals, and we know that the system was put into force in East Jersey.[19]

Hamilton, until he left for England in June 1690, was active in proprietary business. He presided over the Board of Proprietors, not as deputy governor but as president. The Board had ceased to meet monthly in favor of quarterly meetings, frequent enough to care for the business at hand. New settlers were few and many of the British proprietors had lost interest in taking up their rights and dividends in East Jersey. After Andros proclaimed his commission annexing East Jersey, meetings became more infrequent; in fact the Board met in December 1689, in March and May 1690, then not until Hamilton's return from England in September 1692. Attendance became sparse and irregular; only the following appeared at all: Thomas Warne, the old proprietor; Thomas Gordon, John Campbell, John Barclay, George Willocks, James Johnstone, and David Mudie representing the Scottish interest; and John Barker and Miles Forster. Most of these men were agents of individual proprietors and acted as their proxies.[20]

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[18] *ibid.*, 303-304, 310-311; *N.J.A.*, XII, 186-187.

[19] Randolph, *Letters and Papers*, IV, 240-241; Edsall, *Jour. of Court of Common Right*, 25-26.

By 1688 the twenty-four shares or proprieties had been greatly subdivided so that there were now approximately seventy-five proprietors who owned more than 1/32 of a share. (See Appendix.) The mode of fractioning was arbitrary. Some of the original proprietors sold off fractions of 1/2, 1/4, 1/8, 1/16, and 1/32, while others sold 1/2, 1/10, and 1/20. Of the seventy-five, however, only half that number qualified to take part in the governance of the province since a 1/4 share was required to vote on governmental or managerial proceedings. As before, the great majority of the proprietors resided in England or Scotland; unlike those of West Jersey, few had cast their lot in America. Of the original twenty-four proprietors only a few in 1692, ten years after their organization, retained any substantial interest. Penn, Governor Barclay, Brain's heirs, Sonmans' heirs, Thomas Hart, Thomas Barker, Thomas Warne, Clement Plumsted, Robert Gordon, Thomas Cooper, and Melfort still possessed from one-third to a whole share each. Of this group only the Penn, Barclay, Brain, Sonmans, and Hart shares remained intact, but by 1692 only the Penn, Barclay and Sonmans interests were in any way active. The only new proprietor who attempted to accumulate East Jersey shares was the colorful Dr. Daniel Coxe.

In February 1687 Coxe, then thirty-seven years of age and prominent as a court physician, launched upon the first of his numerous adventures in America. Before his death in 1730 his interests were as far-flung as Maine and the Gulf of Mexico. With the death of Edward Byllynge, governor and chief proprietor of West Jersey, Coxe purchased the right of government and a large number of West Jersey shares from the Byllynge heirs. By 1692 he owned 22 of the original 100 proprieties of West Jersey and was by far the largest shareholder. Coxe also began to dabble in East Jersey shares, eventually owning the Byllynge-Stancliffe share, the West-Cox share, and the Gibson-West-Cox share. All were later sold to the West Jersey Society. Dr. Coxe was not strong enough to gain a controlling position in East Jersey affairs, but his status enabled him to insist that the East Jersey proprietors turn their attention at an early date to the settlement of the boundary between the two Jerseys.[21]

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[20] *M.P.E.J.*, 154-190 *passim*, 189, 243.

In 1674, following the reconquest of New York and the Jerseys from the Dutch, King James had confirmed Sir George Carteret's title to East Jersey by lease and release but had withheld any similar grant to the West Jersey proprietors until 1683. The boundary between the two Jerseys was set forth as a line as yet unsurveyed connecting Barnegat Bay on the Atlantic with the mouth of Pennsauken Creek on the Delaware—a straight west-east line. When West Jersey in 1675 fell under the control of Quaker trustees headed by William Penn, this group strove successfully to gain control of the entire east bank of the Delaware River, the most promising area of settlement. On July 1, 1676, an agreement was reached with Sir George Carteret altering the boundary in their favor. This "quintite deed" provided for a diagonal boundary line extending from the north side of Little Egg Harbor to a point on the upper Delaware at latitude 41° 40′. In 1683 and again in 1684 the Twenty Four Proprietors instructed Governor Lawrie to proceed toward the survey of this line; and in 1686 the East Jersey Board of Proprietors resolved that should Lawrie receive any proposal from West Jersey to run it, he should do so.

Since New York also was interested in ascertaining the exact location of the "north station point," 41° 40′ on the most northerly branch of the Delaware, the three deputy governors, Thomas Dongan of New York, Gawen Lawrie of East Jersey, and John Skene of West Jersey, met at Fort James, New York City, in June 1686 and agreed to delegate the matter to their respective surveyor generals, Philip Wells, George Keith, and Andrew Robinson. Though these men reached an accord, their findings were ignored.

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[21] Pomfret, "Proprietors of East New Jersey," *P.M.H.B.*, LXXVI (1953), 279-280. See also Appendix.

Meanwhile, in London, the two Jersey governors, Robert Barclay and Edward Byllynge, "for the benefit of the colonists," undertook to arbitrate the boundary. A committee of five, including the surveyor generals and their deputies, was instructed to make a study and report its findings to the respective governors. It was readily decided also that land would be given in compensation to any who might suffer disadvantage or loss from the fixing of the line. In January 1687 Lord Neil Campbell, the East Jersey deputy governor, John Skene of West Jersey, and several proprietors of each province met on the Millstone River to consider the recommendation of the joint committee. Their findings were set forth by the two principal arbitrators, John Reid of East Jersey and William Emley of West Jersey. They urged that the boundary should be a straight line from the north side of Little Egg Harbor to the north station point on the Delaware River, north northwest, "and 50′ more westerly, reckoned according to natural position and not in accordance with the magnet whose variation was nine degrees westward." This recommendation was accepted and immediately afterward bonds were entered into by the deputy governors and the proprietors of each province, in penalty of £5,000, to abide by the award. In April the East Jersey Board, under the chairmanship of Governor Hamilton, took the initiative, instructing its representatives to proceed to Burlington and notify Governor Skene and the West Jersey proprietors of their intention of carrying out the award. Both parties agreed that the line would be run by George Keith who began work on April 22 and submitted his report on May 26. The Keith line was run only sixty-two miles, proceeding from Little Egg Harbor Bay across the winding Crosswicks Creek and the Burlington-Shrewsbury path, to John Dobie's plantation on the South Branch of the Raritan River. The Keith line, had it been carried to the Delaware, would have greatly favored East Jersey, since it would have touched the river at 41° N. instead of 41° 40′ N. as specified. The northern station point would have fallen approximately nine miles further south on the Delaware.

Daniel Coxe, the new chief proprietor of West Jersey upset matters when, by letter of September 5, 1687, he informed the West Jersey proprietors that for their protection he had disowned both the award and the Keith line. West Jersey, he asserted, had been deprived of much land, perhaps a third of the province. Moreover, he had already met with Lord Campbell and Viscount Melfort, East Jersey proprietors, and William Penn, a proprietor of both provinces, to question the legality of an instrument that had departed so far from the original patent. Campbell and Melfort had argued that a diagonal line projected to the parallel, 41° 40′ was too far north to reach the Delaware and even if the Keith line were adopted it would restrict East Jersey to a very small compass. "As a friendly gesture," Coxe offered them a division that would guarantee them a full third of New Jersey. He had denied their pretensions to an equal division, pointing out that when sitting with them as an East Jersey proprietor, they had always accepted the premise that West Jersey accounted for more than two-thirds of the whole. Indeed Byllynge without contradiction, Coxe stated, had advertised that West Jersey was three times the size of East Jersey. Finally, he wrote, Byllynge, who had sanctioned the Emley-Reid award, had never consulted the other proprietors, as he had promised; indeed at the time he agreed to it he owned only one of the one hundred proprieties. Coxe told the West Jersey proprietors, too, that they had made a mistake in relying upon the East Jersey maps which distorted the whole of southern West Jersey to make it seem much larger than it was. He instructed them to lay claim to all lands west of a straight line from Little Egg Harbor to 41° 40′ on the Delaware, according to the terms of the quintipartite deed. To prevent East Jersey from encroaching on this line he had directed the surveyor general to take up on his proprietary rights all the land west of the Raritan and the Millstone not actually in possession of East Jersey at the time of the award. The owners of forty West Jersey proprieties in London, he stated, supported his decision. William Penn, who for some unaccountable reason had adhered to the view that New Jersey should be equally divided, was the only exception. Coxe's contention was that Byllynge in 1676 in using the term "equally divided" meant no more than equitably or fairly divided.

Coxe's next step was just as surprising. In September 1688, less than a month after Andros had taken over the Jerseys, Barclay and Coxe, perhaps in view of the exigencies of the political situation, accepted the Keith line from Little Egg Harbor to Dobie's plantation. They agreed further that the partition line should be run from Dobie's northeast to the north branch of the Raritan, up that stream to its source, thence via various streams to the Delaware at 41° N. On February 22, 1690, the West Jersey resident proprietors, meeting as a body, ratified the agreement. They observed, however, that they had sacrificed several hundred thousand acres "of ye very heart and cream of ye Country." They claimed that the Reid map, which was used in the survey, was false, and that a true map would have placed the northern station point sixteen miles above the Falls of the Delaware instead of seven, "which makes a vast difference." Nevertheless they thanked Coxe for bringing to a close the endless differences and debates. In a personal letter, however, they warned Coxe that certain East Jersey proprietors had "long fixed a covetous eye upon ye land between ye two lines," and they urged him to adhere to his announced intention of securing the lands in the disputed area for himself, either under his West or his East Jersey rights.

In December 1689 the East Jersey Board, which had not met since August 1688, also ratified the agreement and appointed John Reid to join with the West Jersey representative in actually running the line. The West Jersey proprietors, however, did nothing about it. Finally, in May 1695, the East Jersey Board passed a resolution stating that, since nothing had been heard from the West Jersey proprietors since their notice of 1689, their minute of that date was no longer binding and that "the division line remains as it was agreed to by the award of Reid and Emley bearing the date of January 8, 1687. Thus, insofar as East Jersey was concerned, the incomplete Keith line was acceptable to them, while the West Jersey proprietors, during a difficult period, seemed impotent to act. This unsatisfactory situation continued for years.[22]

[22] Pomfret, *West Jersey*, 74, 152-154.

In 1718, after nearly thirty years of anarchy in which speculators in both provinces, including proprietors James Johnstone and George Willocks of East Jersey, trespassed in the location of their rights, negotiations were reopened under the auspices of James Logan, Penn's sagacious agent. Logan, although upholding the West Jersey proprietors in their insistence that the Barclay-Coxe agreement was valid, pointed out the absurdity of a division that would yield West Jersey approximately 8,000 square miles and East Jersey but 2,400. He urged a revision that would be fair to the purchasers of each division. By an act passed in 1719 by the legislature of New Jersey, the Coxe-Barclay arrangement was set aside and a return was made to the "quintite deed" of 1676 which designated the division line as running from Little Egg Harbor to the northernmost branch of the Delaware at 41° 40′ N. This line was to be run "straight and direct," and provision was made to recompense individual owners who lost by the arrangement.[23]

The establishment of a boundary between East Jersey and New York was likewise shrouded in difficulties. The effort of Wells, Robinson, and Keith to determine the northwestern station point common to all three provinces failed in 1686 because of the difficulty of ascertaining which was the main branch of the Delaware. These same surveyors then endeavored to determine the exact location of 41° N. on the Hudson, the northeastern station point. They finally recommended Tappan Point, at the mouth of Tappan Creek. New York questioned the surveyors' findings, claiming that the true point lay west of Yonkers Mills, further south, then advanced the proposition that a line from this point should be run westward to the forks of the Delaware in the latitude of Easton. No line, therefore, was run in 1686. Again because of the activity of speculators like Johnstone and Willocks such bad feeling was engendered in 1718-1719 that the New York boundary became of pressing importance. Upon Governor Hunter's insistence, New Jersey joined New York in passing an enabling act appointing boundary commissioners. As a result of the subsequent negotiations New Jersey obtained a victory. It was unanimously agreed that the Fish-Kill should be adopted as the main branch of the Delaware and that the north partition point should be placed at 41° 40′ on that stream. Agreement was not reached in establishing a point at 41° N. on the Hudson which led to an unhappy situation where for many years the inhabitants endeavored to avoid paying taxes to either jurisdiction. Finally, in 1767, a commission was named by the crown which in 1772 ran the line from 41° 21′ 19″ on the Delaware to a newly determined but close-by point at 40° on the Hudson. New Jersey was the loser in this allocation but accepted the award.[24]

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[23] Tanner, *Province of New Jersey*, 636-639.

The ownership of Staten Island was another sore point in the relations between East Jersey and New York. Since it lay close to the Jersey shore, the intention of Charles II undoubtedly was to convey it to Berkeley and Carteret. But New York, insisting that an arm of the Hudson flowed around it, took possession, despite periodical remonstrances from New Jersey. In spite of the fact that Peter Sonmans and William Dockwra in 1704, after the surrender, again urged New Jersey's claim upon the board of trade, little attention was given the matter. New York's uneasiness was not so much due to the value of the land as to the fact that possession might in some way assist East Jersey in her claims to commercial independence of New York. If Achter Kull was regarded as an inland waterway, East Jersey's arguments in favor of free ports would be strengthened.[25]

Governor Hamilton left East Jersey to return to England shortly after May 1690. Meanwhile Daniel Coxe, when the Dominion of New England was extended to the Jerseys, decided to pull out of the venture. On March 4, 1692, he finally found a purchaser, the West New Jersey Society, a group of London businessmen whose sole interest was the sale of lands and the promotion of trade. Included in their purchase were the titular proprietorship of West Jersey, the governance of West Jersey for what it was worth in the light of the crown's avowed policy of getting rid of the proprietary colonies, two of the twenty-four shares of East Jersey, and various properties belonging to Coxe in Long Island, Pennsylvania, and elsewhere. We are not concerned with the operations of this joint-stock company except insofar as they impinged upon East Jersey. Its principal concern was in safeguarding its rights to East Jersey lands and in obtaining as valuable holdings as possible. Coxe had already seen to it that most of these rights were established to disputed lands between Crosswicks Creek to the south branch of the Raritan. A large part of this property, after Hunterdon County was opened up, was valuable agricultural land. Much of the upper Millstone Valley belonged to the West New Jersey Society. The Society undertook no trading ventures in East Jersey comparable to those initiated in West Jersey. The possession of two proprieties, however, gave it a voice in the councils of the East Jersey proprietors in London, and it was represented there by Sir Thomas Lane, its president for most of the proprietary period, or some other member of its executive committee. There was never any fundamental disagreement between the Society and the other proprietors of East Jersey. Both supported Hamilton, who was chosen governor of both provinces; and both moved together toward the inevitable surrender to the crown in 1702.[26]

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[24] *N.J.A.*, I, 520-521; Tanner, *Province of New Jersey*, 636-645.

[25] *N.J.A.*, I, 349, 350, 353; Tanner, *Province of New Jersey*, 645-646.

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[26] *M.P.E.J.*, 189; Pomfret, *West Jersey*, 171-179 *passim.*

CHAPTER XIII

Hamilton's Second Administration

On December 11, 1688, King James was dethroned. When the news reached Boston the following April, Andros and his aides were seized and thrown into prison, and their rule came to an end. East Jersey was without a central government for more than three years, although the petty courts, town governments, and other local agencies continued to function. The ascent of King William and Queen Mary to the throne postponed the quo warranto proceedings, but the proprietors of both Jerseys were fearful lest they might not be permitted to re-establish their right of government. They had reason to be since in 1689 the protracted war with France broke out and the sole aim of the King's advisers so far as America was concerned was to attain a centralized defense. The lords of trade recommended the adoption of a single government for New England, New York, and the Jerseys, lest the whole area fall easy prey to the French. New York was regarded as peculiarly vulnerable because her Albany frontier was exposed to the French and their Indian allies. The alarmed merchants of New York City requested that a fleet be stationed in New York waters to guard against an attack by sea.

The proprietary interest in the Jerseys was salvaged at this crucial time by the chief proprietor of West New Jersey, Dr. Daniel Coxe, who in addition owned two whole proprieties of East New Jersey. Coxe endeavored, as the spokesman of the proprietors, to obtain a man of reputation who would serve as governor of both divisions. He made overtures to Colonel Joseph Dudley, formerly president of the council of New England, who was then in London. In November 1690 Dudley wrote his friend William Blathwayt, auditor general of the colonies, seeking his advice. Henry Sloughter, then governor of New York and an interested party, did not oppose the proposal, writing pointedly, "I think this a good arrangement until the provinces are annexed to New York or otherwise disposed of." The scheme fell through when Dudley became president of the council and chief justice of New York. In February 1692 when Coxe learned that the commission of the newly appointed governor of New York, Colonel Benjamin Fletcher, contained a clause empowering him to unite the Jerseys with New York, he appeared before the King's council where "after a long Debate" he succeeded in having it removed.[1]

In April 1692 the lords of trade adopted a minute directing that a writ of *scire facias* be issued against the proprietors of East and West Jersey impeaching their charter. Thus the unending pressure to get rid of the proprietary colonies that was begun in 1685 was resumed under William and Mary. In March 1692 Coxe sold his entire holdings in East and West Jersey to a group of London businessmen for the sum of £9,800. The Andros interlude, the war with France, and the stiff attitude of the crown officials toward the proprietaries had dampened his spirits. Moreover, he was now absorbed in promotional schemes envisioning operations from the Carolinas to the Gulf of Mexico.[2]

Although Coxe had sold his interest, he served as a director of the West Jersey Society for some time. With his intimate knowledge of officialdom he was able to offer sound advice to the Society and the proprietors of the Jerseys. In June 1692, with the full assent of both, he assured the lords of trade that the proprietors would ready the defenses of the Jerseys and would assist the government of New York in the protection of its frontiers. Governor Hamilton, he promised, would also be charged with keeping the militia well organized, well stocked with arms and ammunition, and in readiness to defend the coasts. The proprietors, he stated, had recommended to the assembly that if New York were invaded as many militia as could be spared would be sent to her aid. Since they had no authority to compel the militia to serve outside the province, they could not engage to supply a specific quota.[3]

With the withdrawal of Coxe the proprietors of both divisions appointed Andrew Hamilton their governor. Robert Barclay, the nonresident governor, had died in 1690. William Dockwra, secretary of the East Jersey proprietors, and Paul Docminique, secretary of the West Jersey Society, worked cooperatively. The West Jersey Society was too preoccupied with its West Jersey schemes to pay much attention to its East Jersey holdings. It was not until 1700, when Hamilton became its agent, that it began to sell its lands there. With the exception of the period from April 1698 to August 1700 Hamilton was governor until the surrender to the crown in 1702. He was an able and respected administrator who was plagued not only by the uncertainty of the province's status with respect to the crown but by the long-standing grievances of the inhabitants regarding land titles and quitrents. His last term in office was tragic.

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[1] *N.J.A.*, II, 48-49, 265-266; *N.Y.C.D.*, III, 761.

[2] Pomfret, *West New Jersey*, 170-172, 177.

[3] *N.J.A.*, II, 90-91.

Hamilton performed the work of chief executive with the assistance of Thomas Gordon, deputy secretary and register, and John Barclay, receiver general and surveyor general. Hamilton, while governor, had formerly held the office of receiver general. In April 1693 the proprietors fixed the governor's salary at £200 per annum and at the same time they directed the receiver general to pay him a lump sum of £300 for his services prior to his leaving the country in May 1690. John Barclay first came to the province in 1683 and Thomas Gordon of Pitlochie, Scotland, arrived in October 1684. Barclay had replaced George Keith as surveyor general though John Reid, Keith's deputy, served for several years after Keith removed to Philadelphia. Reid finally succeeded Barclay as surveyor general in 1702. James Dundas became receiver general in 1694, served until his death in 1698, following which George Willocks was appointed.[4]

Hamilton was commissioned governor on April 9, 1692. His instructions from the proprietors dealt largely with the collection of quitrents. This is not surprising since the machinery had broken down with the coming of Andros, and no meeting of the local Board of Proprietors had been held since 1690. Hamilton was directed to have John Barclay, as the receiver general, make up an accurate schedule of rents, tabulated by counties, a list of arrears with the dates incurred, and the quantity of land each person held, with the date of his patent. If any person refused to pay his rent, Barclay would make distraint upon the goods of the delinquent. To eliminate complaints from planters who claimed that their payments in kind were not given full market valuation, Hamilton was authorized to offer a rebate of 10 per cent on all payments in cash. The surveyor general by warrant of the governor and the local Board would survey all allotments of land. The certificates of survey would then be transmitted to Gordon for registration.[5]

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[4] *M.P.E.J.*, 6-8, 185; *N.J.A.*, II, 81-83, XXI, 159.

From 1692 to 1697 the council met frequently, especially when the legislature was in session. It met also in 1698 though the assembly of that year was an abortive one. Since the assembly was in session from periods of but one to three weeks, the responsibilities of a council member were not onerous, although members of the council also manned the bench of the Court of Common Right and a number of them served as justices of the peace and in other public capacities. The council was remarkably stable from 1692 to 1698. Only ten men, including the governor, served. In September 1692, the first meeting since June 1688, the council consisted of Andrew Bowne, David Mudie, James Dundas, John Royce, and John Bishop. In 1693 Isaac Kingsland, Lewis Morris II, Samuel Dennis, and John Inians were added. David Mudie died in 1696 and James Dundas and Isaac Kingsland in 1698, but there were no other changes. Besides Governor Hamilton, David Mudie was the only member of the council who sat on the resident Board, as did Thomas Gordon, who was attached to the council as secretary.

With the exception of Lewis Morris, the council was not distinguished, and Morris was not at this time an active member. Andrew Bowne, later described by Morris as "a quiet man," was a nephew of John Bowne, speaker of the early assemblies. Born in Salem, Massachusetts, his parents moved to Gravesend, Long Island, when he was a boy. As a merchant in New York City he won distinction by being chosen an admiralty judge in 1683 and an alderman in 1685. Attracted to East Jersey as the administrator of John Bowne's estate, he purchased 2,000 acres from John Inians on the south side of the Raritan and another thousand acres at Chingaroras from the heirs of Thomas Rudyard. Residing in Middletown, he served in the local sessions court. He was a member of the council until his death in 1705. John Bishop, Jr., whose father, originally from Newton, Massachusetts, was a member of Carteret's council, entered public life as a member of the bench of Woodbridge court in 1683. He served on the council until the end of the proprietary period. His performance was not noteworthy, but he attended faithfully.[6]

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[5] *N.J.A.*, II, 84-86.

John Royce, like Bowne, moved from New York to East Jersey because of his land interests. In 1682, together with Codrington, Palmer, and White, he purchased 3,500 acres along the Raritan. Three years later he bought 3,340 acres from another New York syndicate headed by Anthony Brockholls and William Pinhorne. This large tract between the Raritan and the Millstone became known as Roycefield. Royce served as a councilman under Governors Hamilton and Basse except for the years 1694 and 1695 when he was Somerset County's representative in the assembly. He was also a member of several assemblies during the royal period. Like Bowne he became deeply involved in East Jersey politics during the last years of the propriety. David Mudie and James Dundas were the Scottish members of the council. Mudie resided in Perth Amboy where he dealt in lands and fractions of shares. Later he lived on his plantation on the South River, a branch of the Raritan, "two hours sail" from Perth Amboy. Until his death in 1696 he served faithfully on the council. James Dundas, son of Sir James, of Armestown, Scotland, arrived in East Jersey late in 1685. The next year he married Janet, daughter of the Scottish preacher, Archibald Riddell. In 1688 Dundas refused the post of deputy receiver general, offered by Dockwra, and it was given to Hamilton instead. Dundas enjoyed a high reputation for his probity and business acumen and was given power of attorney by several proprietors, and by Hamilton when he was absent from the country.[7]

From 1692 to 1702 only seven assemblies were held—six during Hamilton's second term and one in 1699 under Jeremiah Basse. The 1692, 1693, and 1694 assemblies were held in October, the 1695 assembly in July, the 1696 assembly in February, and the abortive 1698 assembly in March. Since 1688 the electoral districts had increased from eleven to twelve. As usual the eight towns sent two members and the New Barbados district, after 1692, two members instead of one. The outplantations of Bergen, now named Hackensack, sent one member, and the Raritan outplantations, now named Somerset County, also sent one. The new district of Wickatunk-Taponemus, called Freehold in 1694, elected two members. A full house, then, consisted of twenty-two members.

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[6] Stillwell, *Historical Miscellany*, III, 34-41; *N.J.A.*, XXI, 59, 66, 100.

[7] Tanner, *Province of New Jersey*, 309-311; Whitehead, *Perth Amboy*, 47, 371; *N.J.A.*, XXI, 125, 191, 209, 237, 284.

Richard Hartshorne of Middletown was chosen speaker of the 1692 assembly, and was re-elected in 1695 and 1696. In 1693 the speaker was William Lawrence of Hackensack; in 1694, John Harriman, Sr., of Elizabethtown; and in 1698, Samuel Dennis of Shrewsbury. Hartshorne served on the council in 1698 and William Lawrence in 1699. The assemblies of the 1690's were veteran assemblies since half the members had served in previous assemblies. Nor had the social composition of the East Jersey assembly changed. The towns of New England origin returned members of the Puritan churches; Bergen and New Barbados sent several of Dutch extraction; Shrewsbury and Middletown, a number of Quakers; and Perth Amboy and Freehold, Scotsmen. The membership reflected the heterogeneous character of the population. The legislation of these Hamiltonian assemblies revealed little that was new; consequently it is not in the statutes that we find the full recital of the troubles that beset the province during its last decade.

The 1692 assembly met at Perth Amboy from September 28 to October 6. Hamilton presented his commission to the council and was recognized as governor. After the house had chosen Hartshorne as speaker and the members were sworn in, the house requested for perusal the governor's commission and a letter from the proprietors, then expressed its satisfaction with both. Several days later Thomas Gordon, whose duty it was to record the acts of the assembly and post them throughout the province, produced his commission as deputy secretary.[8]

The council and the house, acting through joint committees, cooperated in formulating several important pieces of legislation. The acts of the assemblies from 1683 to 1688 were ratified and declared in force with but three exceptions. The 1682 act for the regulation of ordinaries and the 1688 revenue act were repealed since new measures were contemplated, and a clause in the general laws of 1682 releasing the husband from the obligation of marriage if the wife deserted him for as much as six months was declared void.[9]

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[8] *N.J.A.*, II, 85-88; XIII, 187-189.

The revenue bill of £400, so necessary for the defense of the New York frontier, was an item of legislation that the governor had been instructed to obtain. Entitled "An Act for the raising of Money for their Majesty's Service," it followed in form the 1688 bill "to withstand invasion." The head tax from which it was hoped the entire sum would be realized was altered from 10d. on males to 4s. on all householders, 2s. on all non-householders, and 1s. on all females over sixteen. Any balance not obtained in this manner would be raised from a penny per pound tax on the value of land and livestock. Improved land, as formerly, was valued at £10 per 100 acres and unimproved land at £5, and the unimproved lands of the proprietors were deemed tax-exempt. Taxes were removed on the produce of the farm—wheat, corn, butter, beef, and pork. As in 1688 county commissioners would levy and collect the taxes, appraise the amount of the receipts as estimated by the constables, then meet as a group in Perth Amboy to decide whether the tax would yield as much as £400. The county treasurers would receive a fee of 2 per cent upon monies in their custody, and for handling receipts paid in kind. As before the treasurer was authorized to direct the constable to bring an action of distress against defaulters. Any taxpayer guilty of concealing his assets would be fined 1s. per pound upon goods that he had failed to declare. It is interesting to note that the values placed upon produce and livestock were identical with those of 1688 except that tobacco had advanced from 2 1/2d. to 3d. per pound.

In 1692 the county organization act of 1682 was supplemented with legislation dividing the counties into townships. Like those of New England, these units of local government were authorized to adopt ordinances for building fences and roads, to impose local rates for specific purposes, and to qualify as electoral districts. Actually many of the constables did not know the bounds of their districts. The work of setting forth the boundaries was left to the counties, but since they were unable to comply by the time specified, final action was taken by the assembly of 1693. Bergen County would include the corporation of Bergen and the township of Hackensack; Essex County, Newark, Elizabethtown, and the township of Acquickanonk—New Barbados; Middlesex County, the corporation town of Woodbridge, Perth Amboy, and Piscataway; Monmouth County, Middletown, Shrewsbury, and Freehold. Somerset County, the most sparsely inhabited, was not yet divided into townships.[10]

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[9] Leaming and Spicer, 312-313.

Declaring that the laws restricting the sale of liquor to the Indians were ineffectual, the 1692 assembly proceeded to impose corporal punishment upon any person selling or furnishing drink to an Indian. A first offense was punishable with five lashes; a second, with ten; a third, with fifteen; and all subsequent misdemeanors with twenty. The next year, deeming the system unworkable, the assembly reverted to the statute of 1682 which carried a fine of £10 for each offense. The person from whose house an Indian was seen emerging in a drunken condition or who confessed to obtaining liquor there was presumed to be the offender.[11]

In an effort to repress the "great Exorbitances and Drunkedness" occasioned by the sale of liquor in unlicensed houses, the assembly revamped the law of 1682. The existing practice was condemned not only as unfair to those licensed to retail liquor but as "much to the Dishonour of God, impoverishing to the common Wealth." The fine for violation was sharply increased—from 10s. to £5, a third going to the informer, the residue to the county. As in 1682 licenses, upon recognizance of £20 as the guarantee of maintaining an orderly house, were issued by the county justices. The 1692 act went further. It laid an excise tax of 4s. per barrel upon beer and cider and 12d. per gallon upon wine, brandy, rum, and other spirits, collectable by the county treasurer. The justices were instructed to license only the number of retailers deemed sufficient for each town and to set the prices upon the various kinds of liquor. A year later, however, the whole excise system was repealed, and the issuing of licenses was restricted to the governor alone. The liquor problem was a difficult one in East Jersey as in all the colonies.[12]

The assembly also mitigated the fine for the "disorderly" marking of horses from £20 to 50s. Henceforth horses must be marked in the presence of the justice, the constable, the ranger, or "two honest neighbors." In the latter case, a certificate of the marking must be transmitted to the chief ranger and recorded. Irregularities incurred during the past four years, when there was no regular law enforcement, were forgiven. The 1692 assembly revised the system of public weights and measures, last accorded attention in 1676. The county instead of the township was required to keep available standard measures of volume, weight, and length. Two men in each county were authorized to seal and certify all measures submitted to them, for which they were granted fees of from 1d. to 6d. Those persons not making use of certified measures were fined 10s., a third to go to the informer, the remainder to the treasurer. Barrels must contain between thirty-one and thirty-two gallons and be branded with the maker's mark or be forfeited, a renewal of a statute adopted in 1677. The bounty on wolves was raised from 15s. to 30s., half to be paid from the county rates and half by the province. In 1695 the killing of wolves was left to the townships, and the reduced bounty, 15s., was paid by the county. The general laws of 1682 stipulated that the sale or conveyance of the estates of married women—feme covert—was not valid unless the deeds were acknowledged by them in the Court of Common Right. For the convenience of all, the assembly transferred this certification to the justices of the peace, officers readily accessible. Finally, the assembly passed an act specifying that all deeds and other conveyances drawn up by the agents and attorneys or proprietors and other absentee principals were effectual in law, providing the agent's letter of attorney was entered upon the public records.[13]

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[10] *ibid.*, 320, 328-331.

[11] *ibid.*, 258, 316-317, 327.

[12] *ibid.*, 261-262, 318-319, 332-333.

In October 1693, when the assembly convened, Hamilton added four men to his council bringing the total to ten, the largest during the proprietary period. These additional members were Lewis Morris, II, Isaac Kingsland, John Inians, and Samuel Dennis. Morris was the most illustrious appointee since he was later chief justice of New York and governor of New Jersey. Young Morris, only twenty-two at the time of his appointment, was the son of Richard Morris and the nephew of Lewis Morris. Both were merchants and Quakers from Barbados who settled in America in 1670. Together they purchased Bronck's land, a tract of 500 acres just north of Harlem River in New York. When Lewis' parents died in 1672 he became the ward of his uncle who, meanwhile, had settled in East

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[13] *ibid.*, 116, 120, 235-236, 261, 262, 311, 313, 314-315, 317-318, 356.

Jersey. Lewis grew up a headstrong boy, resentful among other things of the Quaker discipline with which he later broke. Nevertheless, guardian and ward were reconciled, and Lewis became the sole heir of his uncle's interest in the Bronck's estate, which had grown to 2,000 acres and to his 3,500 acres in Monmouth County and his ironworks in Tinton, named for the ancestral home, "Tintern Abbey," in Monmouthshire near the Welsh border. Morris served on the council and the Court of Common Right for three years. In 1698 he fell out with Governor Basse, whose credentials he questioned, and he was a stormy petrel during the last years of the proprietary.[14]

Isaac Kingsland, who served on the council until his death in 1698, was an experienced councillor, holding appointments under both Lawrie and Neil Campbell. He had inherited a third of the huge holdings of his uncle, Nathaniel Kingsland of Barbados, who never resided in East Jersey. Isaac himself, lived at New Barbados on the tract of 15,000 acres patented by his uncle and William Sandford in Carteret's time. Isaac, in 1687, acquired 500 acres, his only addition, as head land for his family, his four servants, and eight Negro slaves. These lands were adjacent to his other lands between the Passaic and Hackensack Rivers.

John Inians, formerly a New York merchant, began as early as 1681 to speculate in land on the south bank of the Raritan near the present New Brunswick. In 1684, for example, he purchased 1,920 acres which he later sold to Andrew Bowne. Moving to the Raritan district, he spent many years there developing that frontier area. He persuaded the assembly to convert the "lower trail" from the Raritan to Burlington into a road, and he himself took the initiative in constructing a highway to Piscataway. In 1697 he petitioned the local proprietors for the right to operate a ferry across the river, and although the Board rejected his plea for a right in perpetuity, it granted him a lifetime permit for the nominal sum of 5s. per annum. In 1688 Inians was named a justice of the peace by Governor Andros, who had formed a good opinion of him. Appointed to the council by Hamilton, he served in 1693 and 1698, and in 1699, the year of his death, under Basse. Samuel Dennis, not to be confused with Samuel Dennis of Shrewsbury who sat in the house, held modest landholdings in and about his town of Woodbridge. He was brother-in-law of Samuel Moore. In 1673 Dennis served as a magistrate and militia officer under the Dutch, from 1675 to 1678 as a town magistrate under Carteret, and in 1680 as town clerk under the first Andros regime. He was first appointed a councillor by Lawrie, then served under Hamilton from 1693 till the close of the proprietary period.[15]

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[14] *D.A.B.*, XIII, 213-214.

The war with France overshadowed the October 1693 session of the assembly as it had that of the previous year. The crown was in no mood to consider the pretensions of proprietary and corporate colonies. The solicitor general, Thomas Trevor, in February 1693 rendered the opinion that there was nothing in the grants to the proprietors that impinged upon their Majesties' prerogative to raise men or obtain provisions for the defense of their subjects in the Jerseys or in the neighboring colonies. Although James, when Duke of York, could assign his lands in New Jersey to others, he could not, stated Trevor, sever New Jersey from his propriety of New York! "It remains a part thereof and dependent on the Gov'r'm't of N. York and lyable to contribute men and provisions for the supp't and protect'n of N. York against any Enemys." In April the anxious East Jersey proprietors, under Dockwra's signature, expressed their satisfaction to Hamilton upon his success in maintaining the province in a quiet state. Acknowledging the expressions of loyalty transmitted by the council and the house, they solicited suggestions for promoting population and trade. Most gratifying to them, however, was the readiness of the assembly to comply with their Majesties' request "to give such assistance to their neighbours ag't the com'on Enemy." The proprietors assured the inhabitants that although the New York government had reverted to its custom of soliciting at court for the annexation of the Jerseys this design had been frustrated. The maintenance of good relations between the governor and the assembly would free them from the apprehension of being exposed to the criticism of New York. The proprietors, then, were well aware of the need of protecting their interest against the crown at this crucial time.[16]

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[15] Whitehead, *East Jersey*, 55, 56-57, 75, 76, 117, 132; *N.J.A.*, XXI, 32, 38, 39, 40, 62, 66, 163, 204; XXXIII, 134; *M.P.E.J.*, 131, 158, 225; *N.J.H.S. Proc.*, 3d Ser., VII (1912), 2, 3, 7; Leaming and Spicer, 359-361.

[16] *N.J.A.*, II, 100-102.

Hamilton's task was to persuade the 1693 assembly to continue its aid in the defense of New York. At its first meeting, October 12, it elected as speaker, William Lawrence of Hackensack. A former member of the Bergen County militia, Lawrence was the owner of large tracts along the Passaic River. He was to serve briefly in 1699 as a member of Governor Basse's council. The governor urged the deputies to support the war, an effort, he stated, which had already won them great credit in New York. Indeed Governor Fletcher of New York had already written Hamilton praising East Jersey for the assistance rendered the year before. And in a letter to the board of trade Fletcher acknowledged that "East Jersey hath given us four hundred pounds and sixty five men who are now at Albany," and went on to say, "I attribute this chiefly to the good principles of Coll: Andrew Hamilton, their governor, who is ready on all occasions for our assistance."

The major question before the session of 1693 was what amount East Jersey would contribute to the defense of New York. Hamilton and his council expressed the wish that the assembly would agree to support 30 men for a year on the frontier. The house suggested cutting the number to 20, but Hamilton insisted that 25 "is ye least that they can with credit offer or he accept of." On October 17 the house adjourned for ten days to permit the governor to attend the meeting of the West Jersey assembly at Burlington. It was important for him that the sister province, largely Quaker, also adopt a defense measure. In 1692 its assembly had paved the way in a resolution declaring that though the inhabitants were a people "whose principles for Conscience sake cannot bear arms nor be found in the Exercise of War," such tenets would not stand in the way of those who wished to serve the King in the defense of the province. Hamilton was eminently successful in his mission, for the West Jersey assembly voted £300 for defense.

On his return Hamilton urged the East Jersey house to enact a supply measure. If it was adopted, the London proprietors could then exhibit it to the crown as a demonstration of loyalty; and the governor of New York, then negotiating with Connecticut, could use it to good purpose—to the credit of East Jersey. But Speaker Lawrence argued that because of general poverty the province could not afford to maintain more than twenty men at Albany. In the end

Hamilton was forced to accept these terms. The statute provided that Monmouth County provide five men; Essex, seven; Middlesex and Somerset together, five; and Bergen, three. The sum of £430 would be raised in the same manner as the year before. The commissioners were granted 3s. per diem and the collectors 2 per cent for their services. The governor was authorized to call up the men, arm and equip them. Each soldier would receive 12d. per diem and would be paid by a paymaster general who was allowed two pounds on the hundred for his services.[17]

The assembly adopted five other acts not previously mentioned. Local government was strengthened by authorizing the counties to lay taxes, to maintain jails, to pay off indebtedness, and to provide the 15s. bounty on wolves. Representatives of each township, meeting with the county justices, would determine the amount of money needed and the rate to be laid. The militia act of 1682 was tightened by directing the governor in an emergency to require a longer service than four days per annum minimum. A militiaman failing to furnish his own bullets as required by law was fined, but those unable to provide swords might substitute hatchets. Another act authorized the courts of small causes to arrest persons residing outside the county and bring them to trial. To correct known irregularities, the assembly forbade a marriage to take place unless the banns had been published or the parties had obtained a license from the governor. The fine for the violation was high—£10. Declaring that learning had been much neglected, the townships were authorized to appoint committees for arranging salary and maintenance of a schoolteacher. The minority must abide by the majority judgment and anyone refusing to pay the local levy would be proceeded against by an action of distress. In 1695, because several disagreements had arisen among the inhabitants regarding the locations of the several schools, the assembly ruled that those chosen to appoint the master would also determine the site of the school. Little if any controversy attended these measures.[18]

The deputies pressed for a bill raising their own salaries and eliminating the fine for nonattendance, but the council refused to act, pointing out that the councillors received no remuneration, and, furthermore, that the deputies themselves had rejected the defense act on the ground that the province was poverty-stricken. "This Board thought ye Salary allready enuff." Bills relating to the procedure of the Court of Common Right, the establishment of a court of oyer and terminer, and several other matters were postponed. Twice during the session the deputies complained "that ye Country was much aggrieved by the many and unaccountable practices don ye Inhabitants of this province by ye Collector of New-Yorke," and urged that Hamilton present this complaint to the proprietors.[19]

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[17] *ibid.*, XIII, 193, 197, 199; XXI, 40, 240; *N.Y.C.D.*, IV, 56; Leaming and Spicer, 335-339, 407, 521-523.

[18] *ibid.*, 326-328, 331-333.

The speaker of the 1694 assembly was the Reverend John Harriman, the notable preacher of Elizabethtown. Born in New Haven and educated at Harvard College, he was called to Elizabethtown in 1687 after teaching and preaching in Connecticut and Long Island. Aside from Abraham Pierson of Newark, he was at the time the only active preacher in New Jersey. Until his coming, the Puritans of Elizabethtown, recently supplemented by a few Scottish Presbyterians, were able to hold only "deacon meetings." Harriman built up a strong congregation of more than one hundred subscribers. He served in the assembly from 1693 to 1696 and in 1699 returned as a member from Essex County.

The session of 1694 was a busy one, with fourteen acts adopted. Again the leading question was that of support for the government in time of war. Lurking in the background as always was the larger question of the status of the proprietary government itself, a concern that was voiced in the lower house. Hamilton's policy was to keep matters on an even keel, especially to guide the public weal in such a manner as to leave no criticism of East Jersey's loyalty to the crown. In his opening remarks on October 2, he assured the assembly that he would "deny nothing" that would advance the welfare of the province. Reciprocally he asked the assembly to "lay aside all factions & Animosities & join Cordially in what may be for ye General good & Common defence of this & ye rest of their Maj'ties Colonyes."

The governor pointed out to his council that since the proprietors had maintained the government at their own expense, it was vain to talk of measures such as the encouragement of trade unless provision was made for the public costs. The council agreed to request the lower house to frame a bill for this purpose. Since there was no response, the governor on October 16 requested the deputies to bring in two bills, one for the support of the government, the other to reimburse him for sums expended upon public business. At a conference meeting held three days later the deputies refused to allow the governor more than a fraction of the £160 reimbursement he had asked for. Moreover, they saw no immediate need for a supply measure since the current revenue act did not expire until May. This indifferent attitude provoked a demand from the council that the house state categorically whether it intended to raise funds for defense and for the governor's reimbursement. The deputies reluctantly granted the governor £67 for reimbursement but reiterated that when the funds for defense were exhausted they would take up the matter. As the bill was finally passed, the governor was allowed £79 to be raised in the same manner as the King's tax of 1693. Shrewsbury, Elizabethtown, and Middletown were called upon to pay the largest levies. The council then pressed for a revenue measure but the deputies held that Hamilton had promised that no additional sums would be called for as long as funds for defense were still available.[20]

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[19] *N.J.A.*, XIII, 194, 201-202.

The lower house, early in the session, demanded a discussion upon the trade of the province, "it's lying under the severall very bad Circumstances at present." As a result bills were introduced for the encouragement of trade and shipbuilding. The governor approved both measures. On the last day of the session the deputies adopted a bill providing £30 to prosecute the collector of New York for hindering the use of Perth Amboy as a free port. The council in giving a qualified approval warned the deputies that they must appeal to England any case arising under this act. There their refusal to vote a subsidy for defense would handicap the proprietors. The trade act decreed that all vessels arriving in East Jersey must report to their Majesties' customs house at Perth Amboy under penalty of forfeiture of the ship and her cargo. The act for the encouragement of shipbuilding prohibited the export of dressed timber, planks, boards, staves, and other finished wood products unless the ship's master gave security of £100 to transport such lumber directly to England, the West Indies or the Bermuda Islands. In case of violation the fine would be divided among the governor, the treasurer, and the informer. It was permissible to export firewood and shingles, but no other timber, by float or raft. To better enforce the act the governor was authorized to appoint an inspector in each township.

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[20] *ibid.*, 204, 207, 210-215 *passim*; Leaming and Spicer, 350.

The 1694 assembly adopted a variety of other legislation. To encourage the breeding of sheep, sheep henceforth were exempt from taxation. Court officers, under pain of forfeiture of £100, were forbidden to act as attorneys. County justices were empowered to appoint prosecuting attorneys where bills of indictment were found by a grand jury, such officers to receive a fee of 10s. if the person was found guilty. To expedite the work of the Court of Common Right the assembly required that every plaintiff must serve the writ thirty days before the court convened and that the defendant must make known his defense to the court ten days before. These requirements aided in the proper assembling of juries, always a difficult task in the small village of Perth Amboy. To regularize the office of county treasurer, the official charged with receiving monies allowable to the county by the assembly, it was voted that the treasurer would be chosen by the county justices and that he would receive 2 per cent of the monies he collected. Disbursements authorized were for the building of highways, bridges, and prisons, the care of the poor, the payment of county debts, and the bounty on wolves. The assembly also stipulated that unless a majority of the highway commissioners agreed, highways already laid out should not be altered. The militia act was amended in order to clarify the distress clause. County courts, henceforth, should convene twice instead of once a year in the towns designated by the assembly. These courts were empowered to try criminal cases not involving life and limb and all cases triable at common law. No appeal was allowed in cases involving less than £10 except by writ in error. Appeals would go before the Court of Common Right and, in equity cases, before the High Court of Chancery. To spare the Court of Common Right, persons commencing any action there would be denied the cost of the suit if less than £10 were involved. This act was not intended to encroach upon the jurisdiction already granted the courts of small causes. Somerset County, too sparsely inhabited to warrant a county court, was placed under the jurisdiction of the Middlesex County Court.[21]

Because of many complaints that slaves, under pretense of hunting, were killing swine on private plantations, the assembly forbade slaves to hunt unless accompanied by their owners or owners' proxies under penalty of a fine of 20s. for the first offense, 30s. for a second, and 10s. for each additional offense. Half of each fine would be paid the informer and half the township for the use of the poor. The case itself, if it involved 40s. damages or under, would be tried in the court of small causes, otherwise in the county court, and the action would be taken against the owner. Moreover, no slave was permitted to keep any swine unless it bore the owner's mark. Persons harboring slaves without the owner's consent were fined 5s. for every two hours the slave was in his house. Any person might apprehend as a runaway a slave more than five miles from his master's house, unless the slave carried evidence of his master's permission to be abroad. Persons returning runaway slaves would receive 5s., as previously, if within ten miles of the master's house; 10s. if within from ten to twenty miles; and 6d. for each additional mile. Anyone supplying a slave with a pistol or a gun must forfeit to the owner the weapon itself or 20s., recoverable, if necessary, as an action of debt. In 1696 the slave code was enlarged. Any slave taken into custody for felony or murder would be tried by the county justices who, upon conviction by the jury, would pronounce and execute the sentence. The owner of a slave convicted of stealing livestock, poultry, or grain must, within ten days, make proper restitution to the injured person. The convicted slave would receive corporal punishment up to forty stripes, the master to pay the charges.[22]

The 1695 assembly met early, in July, because the need for a new revenue measure was acute. Hartshorne, after an absence from the chair of two years, was elected speaker. The importance of this assembly rests upon matters that were discussed rather than upon the legislation that was adopted. Only two acts were passed. One provided that all documents relating to land conveyance be translated into English at the expense of the purchaser. Many were in Dutch, and several were in French, causing misunderstanding and some litigation. After much discussion a revenue measure of £150 was adopted. Each township was taxed according to the rate laid down in the 1694 act for reimbursing the governor's expenses. Twelve collectors, leading men in the province, were appointed. Bergen County was assessed £14 8s. 6d.; Hackensack, £7 11s.; New Barbados and Aquickanonk, £12 6s.; Newark, £6; Elizabethtown, £21 11s. 6d.; Woodbridge, £15 9s. 6d.; and Piscataway, £10 5s. Monmouth County would pay £47 9s. 6d.; the township of Perth Amboy, £3 18s.; and Somerset County, £4 16s. 6d. Any collector refusing or neglecting to officiate must make good the damage caused by his refusal to act. The townships were directed to deliver their levies to the governor.

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[21] *N.J.A.*, XIII, 205, 215; Leaming and Spicer, 342-344, 345-351.

[22] *ibid.*, 340-342, 356-357.

On convening, Hamilton informed the deputies that he had taken the liberty of acquainting the towns with "proposals" that he would make to the assembly so that "they might come better instructed." The proposals were four in number: annual support for the expenses of government, a sum to assist the crown to transport troops to the New York frontier, a sum to aid in gaining a recognition of free ports for the province, and a method of collecting quitrents without charge to the proprietors. Since his proposals had been submitted in writing, "so he expected their answers in writting." The governor's exacting attitude got the assembly off to a bad start. The deputies quibbled over the form of the oath because the governor insisted on the wording of the Concessions requiring members "to be faithful to the interests of the Lord Proprietors," which in some way had been changed. Questions also were raised about rumors from England regarding the future of the government of the province which Hamilton labeled as false and groundless.[23]

The old question of the quitrents was in the fore because in the previous May the Fullerton *v.* Jones, Noews *v.* Ball, and Hallewood *v.* Smith cases were argued in the Court of Common Right, arousing concern and unrest among the inhabitants. In his "proposals" to the towns Hamilton had insisted upon the acceptance and prompt payment of these obligations. Hartshorne, speaking for the lower house, stated that the payment of quitrents was a general grievance and asked that some method of buying up the quitrents be afforded. Hamilton suggested that the house send someone to England to discuss the matter with the proprietors. He was of the opinion that they would accept any reasonable terms and added that the council, too, would send an emissary. As a *sine qua non* he insisted upon a yearly fund for the support of the government and made it clear that the house must accede to the "proposals" before he would support their cause before the proprietors. Unless they were adopted, he said, "ye Superstructur would soon fall to ye ground."

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[23] *ibid.*, 13, 352-355; *N.J.A.*, XIII, 216-217, 223-224.

Instead of grasping the nettle the deputies merely busied themselves with ordinary legislative matters. When Hamilton insisted upon some action, the speaker reminded him that it was customary to deal with the money bill last. Hamilton dubbed this "a very bad Custome" and reiterated that the chief reason for his calling the assembly early was to have his proposals considered. The house, without making answer, finally produced a bill to raise £150 for the support of the government. When the council insisted that the house consider the proposals seriatim, the house demanded that the council concern itself with the bills sent up by the deputies. They added cavalierly that they would write the proprietors regarding the opening of ports, the purchase of quitrents, and other matters. The council replied that it, too, would communicate with the proprietors but would inform the house of the contents of its letter. It expressed the hope that the house would reciprocate. On the day of adjournment, August 3, Hamilton told the deputies that if they did not acquaint the council with the contents of their communication to the proprietors, it would look as if they were complaining. He asserted that he and the council were anxious to do all in their power for the well-being of the province. Hartshorne replied that the house had no complaints; nor would they write anything that was not true.

Turning to the governor's proposals, Hartshorne said that he had been instructed to speak for the house rather than send a written message. The deputies felt that they had already done a good deal in the defense of the frontiers. Moreover, the inhabitants were greatly burdened by quitrent arrears. In New York the governor had refused an additional £500 for defense because he believed it was not needed. Hamilton replied that quitrents were no different from other private obligations and could not be advanced as a reason for evading public responsibilities. The reference to New York was fallacious, for the governor had refused the appropriation because of the impossible conditions attached to it. To the request for money to be used to obtain free ports, Hartshorne replied that if the inhabitants must pay quitrents, the proprietors should make whatever expenditures were necessary to validate the claim to free ports. As to adopting a method of collecting quitrents that would relieve the proprietors of the task Hartshorne observed, "if they cannot compell ye master to pay, they cannot compell ye servant to serve." To this Hamilton rejoined that if the people had maintained their payments and had supported the government, the proprietors would never have needed to ask for assistance. On the vital question of support of the government, Hartshorne stated that East Jersey had already voted £800 for defense and the proprietors nothing. The reason for adopting a measure supporting the government for one year only was that there was no assurance that the proprietorship would continue indefinitely. The inhabitants were but tenants at will, and since the proprietors could surrender the government at any moment, they had no certainty of government. To all this Hamilton replied that the house should provide support as long as the proprietors did possess the government and that it was in their interest to do so.

Following this exchange Hamilton brought the assembly to a close. Just because the deputies had adopted an ad interim money bill, he did not feel obligated to accept other bills. Thus the council agreed only to the supply bill and the one requiring the translation of all conveyances into English. Six other bills were rejected. Chiding the deputies for withholding a copy of their letter to the proprietors, the governor transmitted a copy of the communication that he and the council were sending. Hartshorne thanked the governor for making known to the deputies the contents of the council's letter and, since no further business was proposed, Hamilton adjourned the assembly.[24]

At a meeting of the Board of Resident Proprietors held in October 1695 Hamilton, as chairman, proposed that Thomas Gordon be sent to England to consult with the proprietors. During his absence from April 1696 to June 1698, John Barclay was appointed deputy secretary and clerk of the council. The members of the Board advanced £20 apiece to defray Gordon's expenses, except for George Willocks, who was also returning; and these sums would later be reimbursed through the sale of lands. Gordon's instructions required him to urge the proprietors to obtain freedom of ports, inform them fully of the assistance rendered in frontier defense in order that they might combat false information spread by New York's agents, persuade them to adopt a formula for selling quitrents to the colonists, and give them a thorough briefing on certain cases relating to lands since they would have charge of the appeals to the King in council.[25]

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[24] See below, pp. 301-303; *N.J.A.*, XIII, 218, 223-226.

To acquaint the assembly with Gordon's mission, Hamilton convened the legislature in February 1696. Following Hartshorne's election as speaker, he addressed a joint meeting of the houses. Emphasizing that the proprietors had borne the entire charges of government but as yet had received no tangible benefits from the province, Hamilton urged the necessity of financial support. It was the same old tug of war. Hartshorne argued that the assembly had granted what was needed, while Hamilton emphasized that funds were now required to assist the proprietors to defend the right of government. When the council urged a bill of £200 for the defense of the frontiers, the deputies reiterated that the people were too poor to raise such a sum. If, later on, there was a need to take action, they would reassemble. The council then urged, as a demonstration of loyalty to the crown, that half that sum be raised or even a token sum of £60. When, at a later conference, Hamilton asked what he should do if Governor Fletcher demanded a detachment of troops, Hartshorne brushed him aside intimating that the deputies had little interest in the matter. The council kept needling the lower house for defense money, for a powder magazine in each town, and for a fund to relieve the governor of emergency expenditures. Finally, on the last day, March 7, the house produced a bill for defraying "certain charges during wartime," but because its provisions were so unrealistic, it was not even discussed. Hamilton then dissolved the assembly, offering at the same time, without prejudice, to place before the proprietors any suggestions the deputies might have.[26]

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[25] *M.P.E.J.*, 216-217; see below, pp. 298, 304, 316, 326-327, 332-333, 350-351.

In truth, the interest of East Jersey in the defense of the frontier was waning. The militia of the two Jerseys, estimated in 1692 at 1,400, mainly East Jersey "militia bands," stood at only 1,000 in 1696. Up to the end of 1695 East Jersey had remitted to New York £365, largely as the result of Hamilton's prodding. Since his efforts were more persistent than those of New York's other neighbors, Hamilton continued to receive favorable notice in Fletcher's reports. As late as November 1694 he wrote, "I can obtain no assistance from adjacent colonies except the Jerseys." By the summer of 1696 Hamilton was apologizing to Fletcher. "It was with great difficulty I obtained what I did." Only in case of invasion, he stated, could troops be sent to New York and then only on condition that they might return as soon as the action was over. He was compelled to supplement New York's service pay of 12d. per diem with an equal amount pledged on his private credit. Young men lived so well at home and "get so great wages" that there was little incentive to volunteer. Hamilton intimated that a number of them had moved to the southern colonies to escape military service and that others had taken service with the smugglers.[27]

The assembly of 1696 had a meager record, enacting only six laws. Three of them, those relating to the bounty on wolves, the conviction and punishment of slaves for felony, and the regulation of public schools, have been mentioned. One of the new statutes empowered one justice instead of two to issue a warrant convening the inhabitants of a township and authorized a committee of three instead of five to determine the local rates. Another required that anyone chosen constable must serve or pay a fine of £4 and that the constable must be given 6s. for his service in calling a town meeting. Recognizing the importance of maintaining a thoroughfare from Inian's plantation to Burlington, the assembly provided that the innkeepers of Piscataway, Woodbridge, and Elizabethtown should contribute a total of £10 per annum for five years for this purpose. Those of Elizabethtown would pay £4 10s.; those of Piscataway,

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[26] *N.J.A.*, XIII, 230-234 *passim.*
[27] Whitehead, *East Jersey*, 190-191.

£3; and those of Woodbridge, 50s. George Drake of Piscataway, a former assemblyman, was appointed at a fee of 4s. per day to receive these funds, inspect the road, and employ the maintenance men. The latter, who were required to furnish their own tools and equipment, were paid 3s. a day plus 6s. for the use of a team. There were the usual penalties for nonperformance. Drake would account to the assembly for his activities and expenditures. If any town failed to collect the prescribed tax from the innholders, the governor would do so.[28]

The assembly that convened on March 16, 1698, accomplished little. Samuel Dennis of Shrewsbury was elected speaker. Hamilton explained that he had not convened the assembly in 1697 because with Thomas Gordon still in England he had not wished to put the province to the expense. The present meeting had been called at the request of the justices of the peace and a number of other inhabitants. After challenging the election of Thomas Warne, a member of the Board of Proprietors from Perth Amboy, the deputies informed the council that they had adjourned. Undoubtedly they had learned that Jeremiah Basse, already in New York, had been elected to succeed Hamilton.[29]

Thomas Gordon, whose instructions bore the date November 11, 1695, left for England early in 1696. His instructions were in the governor's handwriting. One of the problems of most concern was that of quitrent payments, which had plagued the province from the beginning. Lawrie, as we have seen, made strenuous efforts to collect the arrears and regularize the payments. Yet at the close of his term in October 1686 only 40 per cent of the sum of £737 owed in the township of Shrewsbury had been paid by the 80 settlers listed on the rolls; and of £548 owed by 70 quitrenters of Middletown only 51 per cent had been paid. The receipts from the other townships were no better. Undoubtedly the incidence of quitrents was a deterrent to settlement, although not the only factor in East Jersey's slow growth. As with West Jersey, the sister province, one must reckon with the uncertainty of the right of government and the great attraction of Pennsylvania for prospective settlers. In 1685 there were 336 names on the quitrent rolls; a decade later, 491; and in 1707, only 1,155. In 1696 the annual income from quitrents came to only £200; in 1707, to only £290. East Jersey could hardly be termed a lucrative source of income for the proprietors, even though the quitrents were augmented by sales of land.

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[28] Leaming and Spicer, 355-361 *passim*.

[29] *N.J.A.*, XIII, 234-256.

In 1685 Shrewsbury listed 73 names on the rolls; Middletown, 47; Elizabethtown, 59; Newark, 57; Woodbridge, 66; Piscataway, 41; and scattered about were 52 others. In 1696 the schedules followed a mixed county-township classification with 17 quitrenters listed for Bergen County (not including the town corporation's rent of £15); 170 for Essex County, which included Newark and Elizabethtown; 70 for Middlesex County, a total that included the quitrenters of Woodbridge but not the 68 of Piscataway or the 11 of Perth Amboy. Monmouth County accounted for 65 not including Shrewsbury's 73 or Freehold's 11. Incidentally this is the first mention of Freehold quitrents, though the name enters East Jersey records as early as 1690. Only 11 paid quitrents in Somerset County. In 1707 in a list apparently compiled for the Elizabethtown Bill in Chancery (1746), 121 are listed for Bergen, 110 for Newark, 206 for Elizabethtown, 74 for Woodbridge, 76 for Perth Amboy, 97 for Piscataway, 246 for Monmouth County not including Middletown's 80, 29 for Somerset County and 96 of unspecified location.

When Hamilton returned in 1692, he and the Board, following proprietary instructions, insisted upon the payment of current rents and arrears and upon the registration of all titles. This renewal of Lawrie's policy gave rise to several suits in the Court of Common Right. As before, the patentees of Elizabethtown were in the forefront of the opposition. Many of them, rather than see their lands assigned to others, had taken out patents under Carteret. Some had obtained only warrants for survey, thus protecting the lands they occupied but avoiding having their names on the quitrent rolls. In Lawrie's time the Board had refused to treat with these patentees unless they turned their Carteret patents in for new proprietary patents, renounced all old claims, and paid their arrears. Some, as we have seen, conformed while others adhered to the practice of keeping their names off the rolls. Disgruntled elements remained, especially at Elizabethtown, Middletown, and Shrewsbury.[30]

[30] *M.P.E.J.*, 16-28 *passim*; Stillwell, *Historical Miscellany*, II, 366-385, 402-420; "Some Early New Jersey Patentees Paying Quit-rents," *N.J.H.S. Proc.*, XV (1930), 231-248, 372-387; *N.J.A.*, XXI, 194.

Among these was Jeffery Jones who occupied a 180-acre farm on the Rahway River in Elizabeth Township without a proper title and paid no quitrent. In 1693 the resident proprietors determined to sponsor an action of ejectment against him. Suit was brought in the name of James Fullerton at the October 1693 term of the Court of Common Right. Jones was defended by William Nicolls, the ablest lawyer of New York City, while Fullerton was represented by James Emott, former secretary of the Board. When the case came to trial in May 1694 Emott argued that Fullerton's title traced back step by step to the patent of Charles II to James. Nicolls, while acknowledging the validity of the chain of title, advanced the argument that the Duke of York had in 1674 granted his proprietary to Sir George Carteret in violation of an ancient statute that required the grantor to be in possession for a period of one whole year. When James made his release, East Jersey, Nicolls claimed, was still in possession of the Dutch. Emott entered a demurrer on the ground that the statute of 1540 could not apply in this case. After much delay the case was tried on May 16, 1695. Nicolls then argued that the proprietors could not dispossess Jones because he had enjoyed twenty years possession and thus came under the protection of the Statute of Limitations of 1623, an argument that Emott held inapplicable. As to the validity of the proprietary title Emott argued that the Duke's grant had been made at the time of the Dutch surrender, not before; moreover, this was not a new grant but merely a revival of the original grant of 1664 to Berkeley and Carteret. The court gave the judgment against Jones, whereupon Nicolls moved for an appeal to England.

Behind the brief record of the court lies the all but certain knowledge that the verdict of the jury was overruled by the justices on the ground that the jurors had all been "partyes concerned" and contributed to make up Nicolls' fees. In a petition written in 1697 the inhabitants of Elizabethtown stated that though the jury gave a verdict for Jones, the judges, being either proprietors or their appointees, had reversed the verdict. In 1700 the proprietors asserted that "the Jury being all Planters, gave a general Verdict against the proprietors, contrary to the Direction of the Court, and the Consent of the Council on both Sides, who had agreed upon a special Verdict." Years later, Richard Partridge, the colonial agent, after examining papers in the Privy Council Office, wrote that the court "would not accept the Verdict; and upon a pretty deal of deliveration . . . gave Judgement for Fullerton . . . whereupon the defendant appealed to the King in Council." He added that upon the court's refusing to grant the appeal, Jones appealed by petition.

Nicolls, soon in London as agent for New York, was employed by Jeffery Jones to prosecute the appeal. The case was not heard until February 1697. A committee of the council, after hearing the attorneys and examining the evidence, recommended to the East Jersey council that judgment be reversed. This report was subsequently approved by the King in council, and the decision of the Court of Common Right was set aside. Nicolls, in an affidavit sworn out in 1707, stated that he had presented the Jones case to the council upon the legality of the Elizabethtown patent. If this is true, the Elizabethtown inhabitants, as they ever afterward stoutly maintained, had won a great victory. Their opponents always claimed, though without supporting evidence, that the reversal was due to an error in procedure. Nevertheless, the Elizabethtown associates felt that never again could their claims be brushed aside by the proprietors.[31]

The case of Noews *v.* Ball also originated in October 1693 and reached trial in May 1695. Again Nicolls and Emott were the opposing counsel, and again a proprietary right, that of distraining to collect quitrents, was denied in an Elizabethtown case. The Twenty Four Proprietors in 1682 had inserted a clause in their patents providing that quitrents in arrears might be recovered by distress. Though earlier patents made no reference to the method by which payment was to be enforced, Sir George Carteret in 1674 had instructed his governor to distrain the goods and chattels of a tenant who had fallen behind. The proprietors, finding no distraining clause in the Carteret patents, did not in the beginning attempt distress. As we have seen, they resorted to *scire facias*, a writ that required the patentee to show cause why his quitrent had not been paid. Their efforts produced indifferent results: the corporation of Bergen and John Pike, Sr., of Woodbridge yielded, and John Berry defied the court, while the patentees of Shrewsbury and

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[31] Edsall, *Jour. of Court of Common Right*, 96-98, 100-101; *N.J.A.*, II, 107-108, 111, 127, 348; VII, 268-270.

Middletown incurred only threats. Richard Hartshorne of Middletown argued in court that he ought not answer the writ, even though he had admitted his obligation to pay rent because *scire facias* was not an original process and could be issued only after "a judgment had been obtained or a debt acknowledged upon record." Samuel Winder, the proprietors' attorney, entered a demurrer to this plea. A day was set for the trial, but none ever took place. No further writs of *scire facias* were issued, and, indeed, no further legal action against the delinquents took place. The Board in March 1687 resolved, henceforth, to use distraint, but the advent of Andros curbed their ardor.[32]

Hamilton in 1692 revived the policy of enforcing the proprietors' rights to the land. One Peter Noews, who soon became an Elizabethtown associate, brought suit against Edward Ball, bailiff of the proprietors, for distraining his cattle for £18 quitrent in arrears. Noews's attorney, the omnipresent Nicolls, argued in court that the land in question was held, not of the proprietors but of the King by fealty only. Since the ancient statute of Quia Emptores (1290) prohibited subinfeudation, the proprietors could not grant land which they held of themselves. Once disposed of for a rent the land was automatically held of the King to whom alone fealty was owed. Only rent seck which was not distrainable, not rent service, was due the proprietors. Nicolls claimed, therefore, that it was unlawful for the proprietors to distrain under the Carteret patents. Emott rested his defense upon the authority of the royal proclamations of 1672, 1674, and 1683 which declared that the proprietors were seized of the province "with the sole power under us to settle and dispose of the said country upon such terms as they saw fit." But the East Jersey proprietors, unlike those of Maryland, had no specific waiver of Quia Emptores to fall back upon. To justify their right of fealty they invoked the Concessions wherein the inhabitants were commanded to swear allegiance to the King and fidelity to the proprietors. With this claim to fealty established, it followed that Carteret's patentees owed rent service and were liable to distraint for nonpayment. The jury, however, returned a verdict for the plaintiff, Noews, which the court set aside because no damages had been given—"and where there is no damage there can be no Cause of Action." Though their agent, Ball, was thus protected, the proprietors, themselves, had not remedy against the Carteret patentees refusing to pay rent. Long after, in 1705, Attorney General Edward Northey gave it as his opinion that since New Jersey was granted in fee to the Duke of York to be held of the King in common socage, lands granted in fee by the proprietors were held of the King.[33]

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[32] Leaming and Spicer, 24-25; Edsall, *Jour. of Court of Common Right*, 186-191 *passim*, 195-196, 198-199, 201.

On the day after the Noews case another ejectment action, Hallewood *v.* Smith, was argued. Francis Moore claimed a disputed freehold as the heir of Simon Rouse, to whom Carteret had patented it in 1676. By verdict of the jury Rouse's tenure was found not to be an inheritable estate in fee simple but a life estate only. Since Rouse's patent was a typical Carteret patent, the case was of general interest. The verdict hinged upon the wording of the habendum (the nature of the estate with which the grantee was vested), which granted Rouse his land "to have and to hold . . . his heirs *or* assigns forever." According to Coke and the other jurists cited, the estate was only for life unless the expression "heirs *and* assigns" was used. The Carteret patentees, unwilling to believe that their estates were anything less than estates in fee simple, claimed that, with a verdict reducing the patents containing *or* to a life estate only, they were being deprived of their full titles "through the ignorance of those early times." Actually the court, quite properly, had followed English precedent and could not, as a court, reverse the decisions of the English courts. Not until 1750 was "this strict and somewhat artificial rule" denied by Chancellor Hardwick—in a case where *or* was obviously meant for *and*. Hamilton in 1694 refused to sponsor a rectifying act for fear he would be charged with endeavoring to establish a principle contrary to the law of England. He offered to substitute new patents with the desired habendum on condition that the quitrent arrears, if any, were paid.

The verdict conferring only a life estate upon the Carteret patentees gave the Board a powerful weapon in asserting full proprietary rights to the soil. Since Quia Emptores could not apply to life estates, the Board could freely distrain for arrears. Or, if those holding Carteret patents desired titles in fee simple, the proprietors were willing to grant them if the arrears were paid and the right to distrain acknowledged. By the time Basse became governor he had fallen heir to a full-fledged political issue.[34]

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[33] Edsall, *Jour. of Court of Common Right*, 92.

Thomas Gordon, among other matters, was instructed to consult with the proprietors upon the court cases relating to the land. He must explain the prejudice of the jury against the proprietors in the Jones case. On the appeal, the proprietors must insist that the Duke's regrant of 1674 was legal. They should emphasize that, even under the Nicolls' grants, the Elizabethtown patentees would have paid 1/2d. per acre quitrent since that was the established rate in New York where most of the lands were inferior to those of Elizabethtown. If the proprietors felt that they must enter upon some composition with the associates, the arrangement should be executed by the resident Board, else its usefulness to the proprietors was ended. With respect to the Noews case, it should be urged that distress for nonpayment was implied in the common law. Moreover, according to an Elizabethan statute the owner (feofee) held under the same tenure as the proprietors (mesne lord)—free and common socage, which admitted rent service. What the resident proprietors needed were instructions regarding those patents that contained no distress clause. Also the proprietors should make clear to the inhabitants that the appearance of the word *or* in place of *and* in the habendum was a clerk's error for which they should not be held liable. The assembly did not have the power to make an estate of inheritance that which in English law was an estate for life. Though the inhabitants had behaved undutifully, they would have new patents granted them if they agreed to a distress clause and paid their arrears. This was provided for in the Concessions. Since Gordon did not return until after Hamilton's term came to a close, these issues remained in abeyance.

The proprietors were also asked to clear up the title to the lands claimed by Mrs. Richard Townley, the widow of Governor Carteret. The old Carteret house in Elizabethtown and the farm at Carteret Point were involved. When Sir George died, Lady Carteret instructed James Bollen and Robert Vauquellin, secretary and surveyor general respectively, to take the farm into custody, and in April 1682 Robert Vicars, the new secretary, issued two patents totaling 3,596 acres to Philip Carteret, who named Lady Carteret as his partner. Both Rudyard and Groom had used the house with the status of temporary tenants. But in March 1683 the assembly nullified all Vicars' patents, affording the proprietors an opportunity of claiming the property. They instructed Governor Lawrie to seize the house. In August 1684 Mrs. Elizabeth Carteret petitioned the council, which rejected her plea. She then married Colonel Richard Townley of New York, who moved to East Jersey. In 1686 the resident Board attempted ejectment proceedings, but the case failed to come to trial. "We durst not come to tryall," records the Board, "he [Townley] haveing preingadged all the Lawyers." In November 1687 the Townleys brought suit to establish their rights. On the bench were three Board members, Hamilton, Keith, and Campbell, while another justice, John Johnstone, had a brother on the Board. The fifth justice was Colonel Townley, who was represented by Samuel Winder, an able lawyer and a member of the Board! The Townleys argued the existence of a joint tenancy of Lady Carteret and Mrs. Townley, but there existed no patent to support the claim. Samuel Moore of Woodbridge, a knowledgeable man, was the proprietors' attorney. Since the verdict rested with an Elizabethtown jury, there was no doubt as to the result. An unwilling court was obliged to give judgment against the proprietors and to direct the issuance of a writ of possession. Gordon was instructed to advise the proprietors that the Townley case must be heard in England and a writ of mandamus obtained there, for in East Jersey "the Proprietors will always be cast, let their right be ever so clear."

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[34] *ibid.*, 105-108; *N.J.A.*, XIII, 210.

The proprietors, so the resident members believed, could not be blamed for collecting quitrents if the inhabitants were unwilling to provide for the support of the government. But they anticipated that the assembly would vote a supply bill, thus relieving them of public charges such as copying and distributing laws, documents, and commissions. The assembly, too, they thought, would continue to exempt the proprietors' unimproved lands from taxation. If the people, however, persisted in their obstinacy, the proprietors, as a last resort, could abandon the right of government, obtaining the best terms from the crown they could. However, should they secure a recognition of the right of government and obtain a recognition of freedom of ports, the people might welcome a continuance of the proprietary government. But if freedom of ports were ultimately denied, the lands would be less valuable, and the people would question the payment of quitrents. If the proprietors gained a recognition of Perth Amboy as a free port, they should, to convince the inhabitants of their good faith, underwrite the sending over of a small ship. Other shipowners and factors might then risk inaugurating a trade with East Jersey.[35]

Following the reversal of the Jones decision in 1697, 65 Elizabethtown associates petitioned the King to rid the province of proprietary government. Their address began by reciting the title to their lands: the grant of Charles to James, the Duke's appointment of Nicolls as governor in April 1664, the surrender of the Dutch in August, the license of Nicolls to John Baily and others in October to purchase lands from the Indians, and the confirmation of these lands to Baily and his associates in December. Following the second Dutch occupation the Duke regained possession, and since then the Elizabethtown associates and those holding under them, had enjoyed the peaceful possession of their lands. During this period they had improved them and, "according to Law, Reason and Justice," continued to enjoy them. In 1693, those calling themselves "Proprietors" claimed title to Elizabethtown lands by virtue of a grant to Berkeley and Carteret, dated June 1664, before the Duke took possession, and sought to impose "some large Quit Rent or Yearly Payment for the same." These men now were endeavoring to force the inhabitants to obtain new patents under yearly quitrents. Moreover, the proprietors presumed to exercise dominion and government over them and their lands, appointing judges without any commission from the King! At one of their pretended courts they had brought an action of trespass and ejectment against Jeffery Jones. Despite the fact that the jurors were chosen by the proprietors' creatures, they brought in a verdict for Jones. But the judges, who were either proprietors or men appointed by them, gave judgment against Jones, which "your Majesty upon Appeal hath in your Princely Justice been pleased to reverse."

The petitioners then urged the crown to assist them. Since the pretended government of the proprietors sought to deprive them of their lands through its courts, the associates requested to be taken under the King's protection and specifically to be placed under the civil government and courts of New York. If this could not be done, they asked that impartial judges be appointed to decide between them and the proprietors. Such was the internal situation when Basse replaced Hamilton as governor.[36]

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[35] *N.J.A.*, II, 106-113; Edsall, *Jour. of Court of Common Right*, 92-95; *M.P.E.J.*, 165.

In 1697 through a curious misunderstanding of a provision of the Navigation Act of 1696 Andrew Hamilton was ousted as governor of East and West Jersey. All places of trust and emolument in the colonies, it was held, would be restricted to native-born subjects of England. Many Scotchmen in such positions—James Blair in Virginia, Patrick Mein and Alexander Skene in Barbados, and Robert Livingston in New York, as well as Hamilton—were disqualified. Because of the slowness with which business was done, Hamilton did not learn of his removal for many months. He actually presided over the council until April 1698 before returning to England.[37]

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[36] *N.J.A.*, II, 124-129.
[37] Pomfret, *West Jersey*, 188.

CHAPTER XIV

The Governance of Jeremiah Basse

JEREMIAH BASSE, the erstwhile Anabaptist minister who later wrote a history of St. Mary's Anglican church of Burlington, first appeared in New Jersey in 1692 as factor of the West Jersey Society and simultaneously as agent of Dr. Daniel Coxe, the retiring chief proprietor of West Jersey. He was authorized to take up lands for the Society on its rights, to direct the sale of lands and goods, and to have a general oversight of its commercial ventures. For some time he was *in situ* in West Jersey, purchasing lands from the Indians, locating them, and making a great show of settling the Society's lands in Cape May County. The Society was never too happy with Basse's performance, although it endorsed him as governor of East and West Jersey in 1697. It was necessary to prod him to obtain adequate reports on his many activities. Nevertheless when he became governor, the Society appointed him surveyor general of all its lands, more than a half million acres. But when Governor Hamilton succeeded him as the Society's sole agent in 1699, he was directed to advise with counsel about prosecuting Basse, "to bring him to account." To complete the story, after Lewis Morris succeeded as agent following Hamilton's death in 1703, he was instructed to settle with Basse and his former collaborator, Nathaniel Westland. Morris charged that he could obtain no accurate accounting from them and that they had kept no accurate records of the lands they had located. Basse, incidentally, was heartily disliked by the resident council of proprietors of West Jersey because he had disdained to cooperate with them in the orderly distribution of lands.[1]

In 1695 Basse returned to England and posed as an expert upon colonial matters. He warned of widespread violations of the navigation acts, and his exaggerated accusations against the colonists aroused resentment in New Jersey, New York, and Pennsylvania. Basse possessed an abundance of confidence and was endowed with a zest for political intrigue in high places. When he arrived in London, colonial policy was much to the fore, and he seized upon the opportunity to thrust himself into the situation.

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[1] Pomfret, *West New Jersey*, 176-177, 187-188.

In May 1696 the lords of trade and plantations were superseded by a zealous and vigorous board of trade, which was dedicated, among other things, to enforcing the provisions of the trade and navigation act adopted earlier in the year. While the admiralty was preoccupied with the enemy and unable to patrol the seas against piracy and smuggling, reports of violations poured in from the colonies. Certain colonial merchants were thought to be conniving in the evasion of the navigation acts. To end the mischief, the Act of 1696 had created the board of trade, strengthened the customs service, erected vice-admiralty courts, and put pressure upon the colonial governors to enforce the trade regulations. The board, alarmed by the feeble cooperation shown by the colonies against the threat of French invasion, determined that these disunited entities must be consolidated. It urged the eradication of the proprietary type of colony, a policy that had already won favor among the old lords of trade and other crown agencies. In 1696, then, there was little chance that actions such as quo warranto and scire facias would be forgotten.

There were men in the colonies, many of them crown officials, who made it their business to inform upon the colonists. They were led by Edward Randolph, newly designated under the Act of 1696 as surveyor general of the customs. Randolph resided in Maryland where since 1672 he had held some office under the crown. Taking a violent dislike to the Scottish merchants and traders, he had worked for a provision in the Act of 1696 that would disqualify Scots from holding office in the colonies. Randolph was convinced that Scottish officials were conniving with the Scottish traders in violating the trade regulations.

Basse soon joined this small but powerful group of "prerogative men." When he learned of Hamilton's automatic disqualification, he determined to gain Hamilton's post for himself. He posed as a strong advocate of Randolph's views and hinted that Hamilton had been lax, if not worse, in enforcing the imperial regulations. He sought to ingratiate himself with the board of trade, and particularly with William Popple, its influential secretary. He bombarded Popple with letters, charging violations in East Jersey, West Jersey, and Pennsylvania. He urged also that all proprietary governors must secure the approval of the crown, that all local officers and assemblymen should take an oath to support the Act of 1696 and the instructions of the board of trade, and that vice-admiralty courts should be established in proprietary as well as royal colonies on the ground that violations could not be tried properly in the courts of common law. Popple, himself, was well aware of this situation, for scant attention was given the proprietary colonies when they argued that their charters implied admiralty jurisdiction. In April 1697 a royal proclamation was issued accusing the proprietaries of remissness in apprehending smugglers and stating bluntly that such negligence would be regarded as a breach of trust.

Basse succeeded in persuading the proprietors of both the Jerseys that he was the logical choice for Hamilton's place. As early as June 1697 they memorialized the board of trade to approve the appointment of Basse, and in October they notified Hamilton of his disqualification. It was some time before Hamilton learned of his dismissal. The board insisted that Basse provide a bond of security, in accordance with a royal proclamation of April 1697, before recommending him to the lords justices for a certificate of approval. But Basse lacked the funds to furnish the bond of £1,000 nor were the proprietors willing to advance it. Basse then tried to persuade Popple that he should receive an exemption on the ground that he would perform a valuable service in the enforcement of the navigation laws. He hinted also that he might be given a vice-admiralty commission for the Jerseys. When Popple gave him little hope of an exemption, he shifted his grounds, arguing, what was true enough, that without an approbation it would be difficult to satisfy the inhabitants. The unrest in the province would only be aggravated, with the result that "the strongest hand or the longest sword will be the best title to goods or estates." Finally, Basse with the tacit approval of the proprietors took matters into his own hands. Gambling that a final plea would win him an exemption, he determined to govern without an approbation. As it turned out he had made an unwise decision.[2]

[2] *ibid.*, 191-193.

As early as July 1697, when he was trying to persuade the board of trade to grant him an approbation, Basse wrote Secretary Popple regarding the alarming increase of piracy and smuggling in the colonies. The smugglers, he stated, ran their ships into unfrequented bays, disposed of their wares, dispersed their families, lived well until their resources were exhausted, then embarked upon new ventures. The governor-elect of the Jerseys asked for positive instructions to curb such violations since the local authorities were inclined to be lax and the inhabitants were eager to obtain the hard money the pirates brought in. Basse strongly hinted that an approbation would assist him in curbing smuggling. Popple responded quickly to Basse's communication, requesting specific information about the smuggling but without reference to an approbation. Basse wrote another long-winded letter, adding that as New Jersey was not a royal colony the pirates, naturally, were bolder in their operations there. The whole situation could be corrected if a vice-admiralty court were commissioned in every colony, proprietary as well as royal.

After a lapse of time, during which Basse was en route to East Jersey, the correspondence was renewed. Basse, who had arrived in April 1698, reported that pirates from Rhode Island had landed at Sandy Hook and killed several hogs! He recommended that a fort be built at Sandy Hook that would put an end to such depredations. Late in May Basse seized two pirates, took their depositions, then notified Lord Bellomont, the new governor of New York, that if he would proclaim his vice-admiralty commission in East Jersey he would surrender them to New York. But since Bellomont had not yet received his commission, he was unable to record it either in New York or East Jersey. Nevertheless he ordered Basse to produce the prisoners and Basse obeyed this order regardless of the advice of the East Jersey council and others. Later Popple commended Basse for his zeal in suppressing smuggling.[3]

The controverted right of free ports, always a matter of concern to the proprietors, came to a head during Basse's term. In November 1696 the commissioners of the treasury had appointed Thomas Coker collector of customs at Perth Amboy under Chidsworth Brooks, collector of the port of New York. A month later the proprietors reminded the board of trade that admiralty jurisdiction, together with the right to erect admiralty courts, was implied in the New Jersey grants. Such courts had not been instituted, they argued, because actions regarding the violation of the navigation laws could be brought before the common-law courts, thus enabling them to avoid the expense of admiralty courts. Moreover, admiralty jurisdiction was concerned primarily with the disposition of prizes and none were ever brought into New Jersey. They assured the board of their willingness to erect admiralty courts and appoint proper officers to enforce the navigation laws. In June 1697 the proprietors obtained a pleasing opinion from the solicitor general's office to the effect that as a government distinct from New York, the collector of New York could not deny the Jerseys the use of their own ports or force them to direct ships to New York to pay customs there. The Jerseys could not be bound by the regulations of New York; customs duties in the Jerseys could be imposed only by an act of Parliament or by acts of the New Jersey assemblies. This opinion, addressed to Dockwra, proved of little value.[4]

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[3] *N.J.A.*, II, 223-236, 243-244.

Meanwhile, the proprietors on March 1 had addressed a memorial to the treasury stating that to conform to regulations they had constituted Perth Amboy in East Jersey and three towns in West Jersey as ports of lading and unlading. They asked that an order of the New York collector requiring ships bound for the Jerseys to pay customs at New York be declared illegal. The treasury, in referring the petition to the board, enclosed an opinion it had obtained from the customs, one of its branches. Customs explained that it had never denied the Jerseys the use of ports, but for some time the collector of New York had, in order to secure revenue for defense, imposed local duties on all goods coming into New York Bay, which had always included north Jersey waters. Customs stated it had no jurisdiction in this matter. Following the Act of 1696, by warrant of the treasury, collectors had been assigned at Perth Amboy and Burlington to enforce the navigation acts and to collect the duties upon enumerated articles as required in all plantations. The board of trade after full consideration informed the treasury that "a constant instruction" had been given successive governors of New York to allow no goods to come ashore unless customs duties were paid at New York, to the end that the trade of the Hudson might be preserved to the inhabitants and traders of New York City and Albany who bore the burden of the defense of the province.[5]

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[4] *ibid.*, 130-131, 133-134, 136-138.

The proprietors then addressed a memorial to the lords justices claiming that they had purchased the right of ports with the right of government and of the soil and if this were denied them they would lose an equally valuable consideration, the right of trade and commerce. New York was violating this right by seizing vessels at Perth Amboy and compelling them to proceed to New York and pay duties there. Stating that they had appealed in vain to several crown authorities, they had learned that the question could be settled only by the lords justices. Since the Earl of Bellomont was about to depart to be governor of New York, they asked that he be instructed not to interfere with the privilege of trade at Perth Amboy. The lords justices, too, referred this memorial to the board of trade. The tireless Dockwra also sent a similar plea to the board urging that a decision be taken before Bellomont's departure. Despite the fact that the first New Jersey grants contained the privilege of constituting ports, that the proprietors had long ago designated Perth Amboy as such a port, and that for several years vessels had entered there unmolested, the collector of New York insisted that all ships coming to East Jersey first enter at New York. The proprietors argued that neither the instructions to the governors of New York nor the acts of the New York assembly could bind the Jerseys since they were independent provinces. If it were otherwise, New Jersey would never grow. On receiving Dockwra's petition, the board referred it to Attorney General Sir Thomas Trevor and to Solicitor General Sir John Hawles for their views. In October 1697 these officers rendered an opinion that caused the proprietors great consternation. They held that the power of appointing ports had never been granted the Duke of York by letters patent; therefore the Duke's grant to Berkeley and Carteret could not convey it.[6]

The board of trade based its findings for the treasury upon the opinion of the crown's legal officers. The proprietors had no power

[5] *ibid.*, 163-168, 184-185.

[6] *ibid.*, 169-173, 177-178.

to constitute ports; such power was vested in the commissioners of the treasury by the Act of Trade of 1696. Moreover, before the separation from New York, New York harbor was the port for both provinces. Neither in England or elsewhere were there two ports within the same capes as was the case of New York and Perth Amboy. Indeed when New Jersey was severed from New York, the governor and magistrates of New York had complained of the loss of trade and revenue that would result. If Perth Amboy were designated as a port, the trade of New York, especially the Indian trade, would suffer. The board found only one deviation of policy, an order of King James dated August 14, 1687, which allowed ships to go directly to Perth Amboy, but only on condition that the collector of New York received through his agent there the same customs that were levied at New York. Moreover, the instructions of all New York governors, both before and since, specified that the duties be paid at New York. Since New York was the keystone of defense of a number of colonies, the board recommended that she be granted all privileges that did not infringe upon the rights of others. On November 25 the King's council dismissed the proprietors' petition and ordered that Bellomont be given the usual instruction not to permit goods to land in East Jersey unless the duties were first paid at New York. In February 1698 the board directed Bellomont not to permit any infringement of the rights and privileges of New York.

The proprietors of East Jersey, however, allowed themselves to be guided by the Trevor-Hawles opinions of October 1697 instead of the order of council of November. Unfortunately by the time the order in council reached the board of trade and was acted upon there, both Basse and Bellomont had left England, Basse with assurance of the proprietors that the freedom of port "is now obtained at last, Free from the Encroachments and Pretensions of any Neighboring Colony." Since the benefits would accrue chiefly to the inhabitants, the proprietors instructed Basse to request the assembly to raise a sum of money to reimburse them for the legal expenses incurred in their efforts to obtain recognition of a free port.[7]

Basse, who arrived in April 1698 on the same ship as Bellomont, lost no time in proclaiming Perth Amboy as a port. He informed the inhabitants that the commissioners of customs, by virtue of an act of Parliament of 1685, had constituted Perth Amboy as a privileged port and had commissioned officers to receive the duties there. He cited, too, their instructions to Edward Randolph dated October 21, 1697, designating Perth Amboy in East Jersey and Burlington in West Jersey as ports agreed upon for the inspection of cargoes and the collection of customs duties. Basse's proclamation was dated May 30, 1698, just five days after Bellomont had issued a proclamation forbidding the establishment of ports in New Jersey. Bellomont commanded the New York collector to prohibit any vessel from entering Perth Amboy without first calling at New York and to seize any vessel violating this order. He informed the board of trade that the order in council had given great satisfaction in New York and that several merchants who were shifting to Perth Amboy had given up their intentions. He wrote the treasury that he had forbidden the posting of Basse's proclamation in New York.[8]

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[7] *ibid.*, 180-185, 200-201, 210.

Bellomont then directed his attorney general, James Graham, to compose an official exposition of New York's position. New York, he argued, depended upon its trade to support the charges of its government and its defense. If Perth Amboy were declared a free port, few ships would make the additional 24-mile trip to New York. New York City should enjoy the monopoly of the trade of the estuary just as London controlled the Thames. London's great trade would never have developed if other ports had been countenanced along the river. Moreover, East New Jersey did not possess the strength to suppress unlawful dealing, for even New York with a strong garrison and the aid of a warship encountered difficulties. Since there were only 1,200 families in all New Jersey and only 200 persons at Perth Amboy, "the lesser ought to yield to the greater." Perth Amboy's 200 inhabitants should give way to New York City's 5,000, and East Jersey's 4 or 5 sail to the 100 calling at New York. Until this time there had never been the pretension of a free port. In 1683 the proprietors, for the accommodation of Scottish emigrants and others, were granted permission for settlers to land their goods at Staten Island instead of New York.

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[8] *ibid.*, 218-222.

But in spite of Governor Carteret's proclamation of 1679 that all vessels might trade freely in East Jersey, Governor Andros of New York would not permit it. The proprietors in erecting Perth Amboy made great claims for it as a port but in 1684 the Duke of York commanded Governor Dongan not to depart from the stated policy of compelling all shipping to pay duties at New York. The complaints from East Jersey continued and James, then king, had permitted a subcollector to receive the duties at Perth Amboy. However, they were the identical duties that were paid at New York. Matters had continued in this posture until the present.[9]

In July 1698 George Willocks, recently returned from London as agent for the proprietors, appeared before the East Jersey council and proposed that it approve a scheme of his and Governor Basse's to obtain a decision on the matter of a free port. They proposed to go to New York and endeavor to persuade Lord Bellomont to permit the *Dispatch*, then in New York Bay, to dock at Perth Amboy and unload her cargo there. They would offer to deposit a bond of £1,000 on behalf of the proprietors as security against the payment of New York customs should a test case on the matter at Westminster be decided against the proprietors. The council interposed no objection to this procedure.

When Basse and Willocks arrived in New York on July 23, they were heard by the New York council. Lieutenant Governor John Nassau presided in the absence of Bellomont who was on the Albany frontier. Basse stated that East Jersey did not claim the right of free port as a charter right from the Duke but by virtue of a statute (25 Charles II, c. 7 [1685]) which directed the customs commissioners to designate ports in the several provinces where duties would be collected. East Jersey had designated Perth Amboy for this purpose. New York certainly could not deprive East Jersey of this right, only Parliament, which had bestowed it. Moreover, New York could not impose the special levies for defense adopted by its assembly upon goods coming into East Jersey because East Jersey was not represented in that assembly. East Jersey had acted correctly in the case of the *Dispatch*. Her master had signed bills of lading to deliver goods at Perth Amboy, and customs had assigned a subcollector, Thomas Coker, to collect the duties there.

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[9] *ibid.*, I, 475; II, 231-234.

Basse further stated that the East Jersey council was resolved to afford protection to ships using Perth Amboy and repel force with force. Before going further he hoped New York would accept a bond until the outcome of a trial was known. The New York council referred the matter to Bellomont who later wrote a long report about Basse's claims.

The East Jersey council at its meeting of August 1 backed up Basse and Willocks, recording that it was important both to the province and to the proprietors for Willocks to bring the *Dispatch* to Perth Amboy. It promised to recommend to the next assembly that the proprietors be reimbursed for any charges to which they were put. The *Dispatch*, however, never put in at Perth Amboy. Relations with New York were further strained because on July 23, the day Basse was in New York, the New York collector, Dulcie Hungerford, had attempted to seize a small sloop in process of unloading goods at Perth Amboy in violation of Bellomont's proclamation of May 24. Hungerford and his aides were prevented from boarding the ship. Later, on shore, Hungerford and his assistant, John Parmeter, were attacked by a mob armed with clubs and were arrested by Samuel Dennis, justice of the peace. Dennis charged the amazed Hungerford with provoking a riot and kept him in custody for four hours, time enough to allow the ship to slip away. Hungerford then signed a deposition relating this experience that was sent to the board of trade as another exhibit of Basse's conduct. All of Bellomont's complaints were referred by Popple to the treasury inquiring whether the latter had given Basse any directions regarding the order in council of November 25, 1697. Popple observed that the allowance of privilege of port would have a pernicious effect upon the trade of New York and the crown revenues. He also sent the commissioners of customs copies of the documents bearing upon Basse's violation of the order in council and reminded customs of the importance of the colony of New York in the defense of the plantations.

It was not until February 1699 that the customs commissioners replied to Popple's inquiries. Their views were embodied in the official report they were called upon to make to their superiors, the treasury lords, who were also involved in the dispute. As usual the customs commissioners favored the New York position. They cited two acts of Parliament that bore on the problem. That of 25 Charles II, c. 7 (1685) lodged in customs the authority for setting and collecting the duties upon tobacco and other enumerated articles payable to the crown. That of 7-8 William III (1696) provided that the commissioners could appoint customs officers at ports in the plantations where they were needed. Customs reminded the treasury lords that, on the recommendation of Edward Randolph, surveyor general of the plantations, they had installed a collector at Perth Amboy in East Jersey as well as in other places. The collecting of customs at Perth Amboy was not intended to exempt the inhabitants of East Jersey from the payment of any duties they were obligated to pay to New York. Such duties were wholly different, hence not under the purview of customs. The proprietors, not satisfied, submitted a petition to the King's Council for a reconsideration which the Council referred to the board of trade for its recommendation on March 9, 1699. By this time the affair of the *Hester* further complicated matters.[10]

Failing to lure Bellomont into any agreement on the *Dispatch*, Basse late in November 1698 began to load the *Hester*, a small ship of 120 tons, which he owned jointly with his brother-in-law, John Lofting. Her cargo consisted of 28,000 barrel staves worth about £90. On November 25 Bellomont sent Collector Hungerford and a lieutenant with 40 men to seize the ship and convey her to New York for violation of customs instructions. Basse was told that if he paid the New York duties, the ship would be restored. Basse refused stating that he wished to test the claims of New York in Westminster Hall; and he threatened to sue Bellomont for damages. He also stated that the proprietors had ordered him not to recognize any commands from Bellomont.

In writing an account of the seizure to the board of trade, Bellomont added that he had not assumed control over the East Jersey militia, as instructed, because there was no legal civil government in the Jerseys. Basse lacked an approbation, and the people knew it. If they protested, Basse would refuse to call an assembly, their only remedy. Bellomont confided that Basse had been formerly in very mean circumstances, "and his carriage is now very foolish, which makes him contemptible to the people."

[10] *ibid.*, II, 237-238, 241-246, 247-248, 251-255; XIII, 241-248 *passim.*

At an East Jersey council meeting on November 26, the day after the seizure, the governor asked the council whether he should mobilize the province and retake the *Hester* or let matters rest. The ship had been seized, her captain, Richard Wise, and all the crew were prisoners, and several had been injured. The council resolved unanimously that force should not be used to retake the *Hester*. On December 12 the council met again and reiterated its opinion to have no further concern with the *Hester* and especially not to comply with any requests of the governor or the government of New York. It was resolved that an assembly be convened at Perth Amboy on February 21 next, the first since Basse's arrival.

Even before the assembly chose its speaker, Basse indulged himself in a florid oration. Since the province had recently suffered wounds from a neighboring province, he would aid the assembly in finding a proper remedy. He asserted East Jersey's right of port, citing the instructions of the treasury to the commissioners of the customs. He urged the assembly, despite the difficulties, to stand behind him in his contest over Bellomont's seizure of the *Hester*. Though Bellomont had offered to restore the *Hester*, for a consideration, he deemed it in the interest of the province to refuse. Through a suit at law, he concluded, "you have the fairest prospect of attaining your desired end, the clearing of your trade from its hindrance & Obstructions, & given the greatest encouragement to other Merchants to venture their Stocks in trade amongst you, when they see you generously defending of them."

Assured by the proprietors in a recent letter that their rights to ports were fully cleared and after hearing a statement of the seizure of the *Hester* by her master, Richard Wise, the assembly passed a bill to raise £675 "not only to remonstrate the injuries done us, but also to avoid the like Incursions for the future." As in previous revenue acts, both property and persons were taxed. For tax purposes improved lands were evaluated at £15 per hundred acres; unimproved, at £7 10s.; and lots in Perth Amboy from £6 to £10. Likewise cows, oxen, steers, horses, and mares, as well as Negro slaves, were evaluated. All males over sixteen would pay a head tax of 6s. A small tax was levied on boats and sloops, on saw, grist and fulling mills, on retailers, and on Indian traders. Commissioners, eleven for the townships and one for Somerset County, were appointed to collect the tax and were paid 4s. per day for determining the amount of the assessments and 6d. per pound on all they collected. All receipts were turned over to Andrew Bowne of the council, newly appointed province treasurer. A committee of ten, five from each house, was empowered to authorize the treasurer to advance funds for the prosecution of the case of the *Hester*. Sir Thomas Lane, head of the West Jersey Society and a proprietor; Thomas Hart, a proprietor; Governor Basse, soon to journey to England; Robert Waley and John Lofting, merchants of London, were chosen as agents to prepare the case for the province.[11]

In May 1699 when Basse left for England to aid in the trial, he left a none too happy province behind him. The revenue act had aroused great resentment among substantial groups. At a town meeting of April 11, the Newark representatives were given instructions to vote against it because it did not state how the money was to be expended, but left it to the judgment of the five men nominated in the act. Moreover the money would be transmitted to others whom "we have no reason to trust" and without any assurance that it would be applied for any other purpose than paying the owners of the *Hester* (Basse and Lofting), "which we suspect to be the End of raising the sum." The meeting resolved unanimously not to pay the tax or to aid the sheriff or any other officer with its collection. It further resolved to resist the collection of the tax, "because we know of no illegal force committed upon us by our neighboring Province." The act had been labeled "An Act for redressing a Force of our Neighbor Province."

The opposition gathered great strength later in the month when, prompted by Lewis Morris, Newark, Elizabethtown, Perth Amboy, and Freehold joined in a formal protest to the proprietors against Basse. They disowned a resolution adopted by the lower house congratulating him upon his work and expressing the hope that he would long continue as governor. The people were convinced that he had prostituted the office of governor for his own purposes. Far from defending Perth Amboy, he had taken no steps to defend the *Hester* though he knew an hour in advance that she would be seized. He was implored to take command of the defense but refused and "trembling left them." Bellomont's ship lay two hours before Perth

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[11] *ibid.*, XIII, 244-250; Leaming and Spicer, 376-381.

Amboy, while her soldiers ridiculed the government of the Jerseys. To placate them Basse had presented the captain with brandy and provisions, and actually had drunk to Bellomont's health! They could condone his "meanness of spirit" were it not accompanied by other defects. They accused him of violating the people's rights and privileges. In an election for the house he had taken the writ from the constable of one of the townships when it was apparent that one of his minions would not be elected and had changed the date to two days later. He had violated the proprietors' instructions in agreeing to a tax on unimproved lands—an instance of his conniving against the proprietors. "No Govern'r has had a Councill that could better Suite and Answer his Sinister designes than that of Mr. Basse's," the protest concluded. Unknown to the signers, the proprietors had already lost confidence in Basse, for as early as March they had appealed to the board of trade for the restoration of Hamilton as governor.[12]

Meanwhile, the proprietors, following Basse's line, began to protest the seizure of the *Hester*. On March 23, 1699, in a petition to the board of trade, they waived their claim to a free port as a charter privilege but simply alleged that the right of port was a common and natural right, "a priviledge which every other collony of America doth enjoy to this day." Perth Amboy, they argued, had been designated as a free port under the direction of the commissioners of customs under the authority of the act of 1685. Since New Jersey had been separated from New York before any customs duties were imposed, there could be no injury to the revenues of New York. Moreover, it was unsound to claim that Perth Amboy was part of the estuary of the Hudson; actually it was on the Raritan River, outside the New York Bay area. It would be a hardship for ships entering or leaving Perth Amboy to go first to New York. The proprietors reiterated that East Jersey would willingly impose the same duties as those collected in New York. They requested permission to make a test case, else the inhabitants would clamor that they had been remiss in asserting their right to a port.

On April 2, a discussion was held with the board of trade, during which the right of government was raised in conjunction with the right of port. The proprietors then renewed their petition, with further arguments. If equal duties were paid in New Jersey and New York, this would countermand the argument that there would be a flight of merchants from New York to Perth Amboy. Actually the growth of trade at Perth Amboy would stimulate the settlement of East Jersey, which had a large surplus of good land. More men and aid would be forthcoming for the defense of the frontiers, thus relieving both New York and the crown. The proprietors would guarantee to pay in to the New York treasury as much as customs for East Jersey would have amounted to in any year since New Jersey was separated from New York. As to questioning the right of government, the proprietors had enjoyed it since 1665, and this right had been buttressed by the command to obey them both by King James and King William. They also cited the declarations of James, as Duke of York in 1682, and of Charles II in 1683. Moreover, Dr. Coxe had procured an order in council removing from the instructions of Governor Fletcher of New York a clause giving New York the governance of the Jerseys. The proprietors asked for a prompt reply to their petition for a trial.

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[12] Newark Recs., 113-114; *N.J.A.*, II, 257-258, 273-275.

On April 18 the board of trade informed the King's council that they saw no reason for altering the council's order of November 1697. A free port at Perth Amboy would be prejudicial to New York. To quiet the inhabitants of East Jersey, they recommended that the council consent to a trial at Westminster upon the right of free port and also the right of government! When the board of trade informed the proprietors of their recommendation, the proprietors answered that while they were pleased to have a test case on the issue of a free port, they had suggested no test of the right of government. In their thinking, the right of port did not depend upon the right of government. They could not, therefore, without injustice to themselves and to the inhabitants, acknowledge that the right of government was part of such an issue.

Not wishing to face a full-fledged defense of the right of government in the face of official disapproval, the proprietors on July 5 submitted a précis of the conditions upon which they would surrender the province to the crown. Of thirteen stipulations, one asked for the recognition of Perth Amboy as a free port, with the concession that all ships entering there pay the same duties as were payable at New York. The crown took its time in considering the suggested terms of surrender. In a letter written August 1 to Bellomont, the board of trade emphasized that they had linked their assent to a test case with a test of the right of government—"a matter in which they are very tender." The proprietors, the board told Bellomont, had then endeavored to obtain a tacit acknowledgement of the right of government by applying to the crown for an approbation for Hamilton to return as governor, thus hoping to draw them "into a snare." This request had been rejected. Since there were a number of objections to the proprietors' conditions of surrender, "we are apt to think that business may hang yet some time longer in suspense." They requested Bellomont to study them in relation to the province of New York. The harassed proprietors, in January 1700, again urged their case stating, "if their desire of a Port is granted, they do not forsee any great difficulty to adjust with your Lordships in the other Articles mentioned in their Memorial."[13]

In February 1700, Basse, now out of office, together with his brother-in-law, Lofting, petitioned the House of Commons for relief. He recited the seizure of the *Hester* by Bellomont, its condemnation and sale to Abraham Depeyster of New York for £315, which was used to pay the costs of the seizure and condemnation and the wages of the master and seamen. Basse claimed the ship was worth £1,200 and the cargo £800. Nothing came of the petition. Meanwhile, with the consent of the board of trade, arrangements were made to bring the case before the court of king's bench whereby a decision would be reached on the port issue and the right of government itself. An action of trover was brought against Bellomont in May 1700 to recover damages equal to the value of the goods seized. The jury surprisingly found for Basse and Lofting, who recovered damages of £1,800 and costs of £90. The chief justice sympathized with the plaintiffs as was evident in his conduct of the trial, for he was not convinced that New York ever possessed any independent legislative jurisdiction over the Jerseys. Thus an end was put to the antics of New York. Perth Amboy was confirmed as a free port, and the Kill van Kull was no longer regarded as part of the estuary of the Hudson. This triumph, however, came too late to be of practical value to the proprietary of East

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[13] *ibid.*, 254-257, 259-263, 267-269, 294, 303-304, 308-310.

Jersey for two years later the proprietors surrendered the colony to the crown. In November 1700, Bellomont, highly chagrined, wrote the board regarding misrepresentations Basse had made. He claimed that he had not received a penny from the sale of the *Hester*, for the £315 was applied to the wages of the master and the sailors. The ship, leaky and otherwise in bad repair, was worthless. The cargo of staves was hardly worth £70, yet Basse had received damages of hundreds of pounds. The board in April 1701 replied lamely that "it was not in our power under those proceedings of his about the ship *Hester*; but we did all that lay in us to defend his Majesty's right in that cause, tho' the success did not answer expectation."[14]

Basse's instructions were dated April 14, 1698, a week after he appeared in East Jersey as governor. Basse had left England earlier than planned, hoping that his approbation would follow soon. The proprietors had requested him to seek a number of measures from the assembly. First, they wished an annual appropriation for the support of the government and a sum to reimburse them for the expenses they had been put to to gain a recognition of Perth Amboy as a free port. They also appointed Willocks as receiver general to succeed Hamilton, and instructed him to collect the quitrent arrears. To adjust a long-standing grievance he was permitted to sell off the quitrents to those owners wishing to purchase. To add authority to this concession, Basse was directed, when half the rents had been purchased, to have the assembly adopt a law guaranteeing title to the quitrent against any proprietor. When the arrears were paid, half the rents purchased, and a suitable revenue act adopted, Basse could consent to an act guaranteeing the inhabitants certain privileges. The assembly would be given the privilege of nominating double the number of justices of the peace, coroners, and other officers, of whom the governor would appoint one half. This system followed the old New Netherlands system whereby the governor and council were required to appoint half the panel submitted by the inhabitants. These privileges would be denied to any township where the majority refused to pay their arrears or where less than half the quitrents had been purchased. The proprietors also instructed Basse not to consent to laws taxing uncultivated lands—which he disobeyed—or for the maintenance of ministers. The assembly should adopt a law requiring all attorneys to obtain a license from the governor. For the improvement of trade and travel, a road passing through Perth Amboy from New York to Burlington should be completed. Finally the proprietors decreed that all laws presently in force should be effectively executed and all new laws should be submitted to them for approval.

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[14] *ibid.*, 311-313, 340-342, 368; Whitehead, *East Jersey*, 206-207; Andrews, *Colonial Period*, III, 163-181.

Basse was ordered not to call an assembly for at least two months. By that time the proprietors hoped to have the crown's approval for him as governor, but as we have seen, no approbation was forthcoming. No assembly was convened for ten months. Basse was extremely careful on April 7, 1698, when he appeared before Hamilton and the council to present his credentials. He exhibited a commission dated July 15, 1697, signed by the proprietors; a form issued by the lords justices and filled out by the proprietors enabling him to take the oath prescribed by the act of 1696 as a plantation governor; and a deposition under the hand and seal of Bellomont dated April 5, 1698, setting forth that he had taken the oaths required by Parliament and that he had signed the test and association. After these instruments were read, Basse took the oath of allegiance to the King and swore fidelity to the proprietors. In the absence of any protest, the council ordered that proclamations be issued in the several counties setting forth Basse's commission.[15]

Basse's council consisted of Andrew Bowne, John Royce, John Inians, Thomas Warne, Samuel Dennis, James Dundas, John Bishop, Jr., Thomas Codrington, and, with the meeting of the assembly, a new member, William Pinhorne. By the time the assembly met the only regular attendants were Bowne, Royce, and Pinhorne. Inians and Warne came to a few meetings, but the others either retired voluntarily or simply did not attend. Pinhorne, a merchant and an alderman of New York City, had been elected speaker of the New York assembly in 1685. He was a member of the council that condemned Jacob Leisler in 1691. When the pro-Leisler faction came into control in 1698 Pinhorne was removed from the council and deprived of his large grant on the Mohawk River. He then moved to East Jersey where he owned a large plantation on the Hackensack. He served on Basse's council and was later retained by Hamilton. Basse encountered no difficulties whatever with his council, for they left the running of the government entirely with him.

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[15] *N.J.A.*, II, 209-213; XIII, 237-238.

Basse's one assembly sat, with interruptions, from February 21 to March 13, 1699. Membership in the lower house was designated by county for the first time although the townships continued to elect their own members. The house consisted of six members from Monmouth, seven from Middlesex, six from Essex, and three from Bergen. The Monmouth deputies were Richard Hartshorne, Benjamin Burden, John Williams, Daniel Harcott, John Reid, and John Hance; those of Middlesex, George Willocks, John Barclay, Samuel Dennis, John Pike, Samuel Walker, Jedediah Higgins, and Thomas Codrington; those from Essex were John Treat, John Harriman, Elias Michielson, Claes Romaine, Jasper Crane, and Andrew Hampton; and those from Bergen, Johannes Stynmets, Edward Earle, Jr., and William Lawrence. Hartshorne and Codrington by this time had retired from Basse's council. John Harriman of Elizabethtown was elected speaker, though Basse had reservations about Harriman, indicating that he was a member of the faction in the house who had petitioned Bellomont to take East Jersey under his protection. Harriman, who was taken ill during the session, was succeeded by Edward Earle, Jr., of Bergen.[16]

Aside from the controversy over free ports, which angered the inhabitants more than their deputies, the only struggle was with George Willocks, who, as receiver general and proprietors' agent, proved to be irritating to the house. At the December 1698 meeting of the resident Board, Willocks announced that he, as agent, was authorized to collect all arrears and sell off the quitrents. He asked, in view of the popular attitude, whether he should institute suits to collect the arrears. The Board counseled delay until the assembly met, authorizing Willocks only to dispossess certain lot-owners in Perth Amboy who had not performed on their contracts with the proprietors. On March 1, Willocks, now a member of the house from Middlesex, appeared before the council as proprietary agent and requested that the council not concur in any legislation passed by the house inimical to the proprietors until he had been heard. Later in the day he informed the Board that the house was about to adopt the "habendum" measure, giving the word "or" in the patents the same force as "and," without giving him a hearing. To satisfy the Board the council arranged to hear Willocks at a joint meeting. Willocks told the assembly that the proprietors would not oppose the measure if the assembly would guarantee them their quitrents. This proviso implied a right of distraint. Should the assembly reject this proposal, Willocks insisted that the inhabitants should take out proprietary patents for the lands they held. Should the assembly disregard both offers, the Board, Willocks informed the assembly, would advise the governor to withhold his assent to the habendum measure. Willocks' proposals so alienated his colleagues that they accused him of disloyalty to the house and refused to debate the matter with him. They vacated his seat and requested the governor to issue a warrant to Perth Amboy to choose another representative. The governor immediately complied. Basse surprisingly accepted the bill: hence the accusation against Basse that he had betrayed the proprietors' interests. Yet, early in the royal period, this statute was re-enacted. To take care of persons like Willocks, the assembly adopted another bill forbidding the voters to return anyone to the house who was a member of the council or an agent or proxy of the proprietors. This practically eliminated anyone on the resident Board from sitting.[17]

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[16] *N.Y.C.D.*, III, 716n; *N.J.A.*, XIII, 250-259 *passim*.

In addition to the habendum act, the township rates act, the deputies' qualifying act, and the money bill, the assembly at Basse's instance adopted two other measures, one directed against smuggling and privateering and the other setting forth the "rights and privileges" of the inhabitants. The first act was the result of a proclamation of the royal council, read by Basse to his council in July 1698, prohibiting the inhabitants from joining unauthorized colonizing expeditions, such as the Scottish expedition to Darien. The act itself was modeled upon a Jamaican law and was adopted without opposition. Those committing piracy, robbery, or murder on the high seas or any waterway in East Jersey would be judged as if the offense had been committed upon the land. A special commission appointed by either the council or the admiralty judges would try the case.

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[17] *M.P.E.J.*, 231; *N.J.A.*, XIII, 254-258 *passim*; Leaming and Spicer, 267, 362-363.

Commissioners would be appointed with power to summon an armed levy to seize anyone suspected of piracy. Persons refusing to answer a call for assistance would be fined £5 or if unable to pay would receive twenty lashes. There is no record of any prosecution under the act. In June 1699 Basse wrote Popple with great satisfaction that the assembly had passed an act "against Privaters & Pyrates, the pest and bane of trade against whom no lawes can be too severe, Which I shall also take care shall be diligently put into execution." Learning that he would soon be replaced by Hamilton, Basse launched another attack against the Scottish traders of East Jersey and Pennsylvania. "I am too much discouraged," he wrote, "in my zeal for the common good and His Majesties services, in that I have nothing beyond a Proprietary Commission to support me, and even then persons seeming to desert me because of my discountenancing the Scotch and pirates."

Basse, like Randolph, continued to hold it to be a mistaken policy if the Scots were not entirely excluded from the government and trade of the colonies. In 1695 through an oversight of King William the Scottish Parliament passed an act creating the Company of Scotland, enabling Scots to establish marts and colonies in places not occupied by other English peoples—a bit of legislation that intruded upon the monopoly of the East India Company. The English merchants were seized with a kind of panic, especially when the Scots landed at Darien on the eastern side of Panama and built a fort there in February 1699. It failed when the English government absolutely refused to permit the governors of the West India colonies to come to its aid. Randolph was furious at the whole development. As early as February 1697 he objected to Hamilton's appointment on the ground that he was a "great favourer of the Scotch traders." The board of trade in the spring of 1699 forbade the colonies to give any aid against the Spanish, and Basse immediately wrote that he had issued the necessary proclamation forbidding assistance to the colonizing expedition from Scotland "to parts of America belonging to Spain, now at peace with England." Basse's proclamation was issued in August upon his return from a visit to England. Needless to say, no East Jersey Scots were interested in going to Darien.[18]

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[18] Leaming and Spicer, 363-366; *N.J.A.*, II, 287-288, 297-298; Insh, *Scottish Colonial Schemes*, 179-180; Ogg, *Reigns of James II and William III*, 277-279.

Nothing like Basse's "Rights and Privileges" bill had been considered for many years. It was an effort to reassure the inhabitants of the proprietors' and Basse's good intentions. Legislative power, it stated grandiosely, resided in the governor, council, and the representatives of the people. Administrative matters were vested in the governor and the council, with a minimum of three members participating. They would be conducted strictly in conformity with the laws of the province and of England. Freeholders of the townships would meet annually in January to choose their representatives, and the general assembly would meet in May at Perth Amboy. The assembly would continue by prorogation and adjournment until the new election. Bills adopted by a majority of the representatives if approved by the governor and council became laws which remained in force until they expired or were repealed. Such laws must not be contrary to the fundamental laws and constitutions of England. It was the duty of the register and secretary to maintain custody of the records at Perth Amboy and to record all patents and other conveyances, all of which must be presented within six months of the date of the transaction.

Under the act, the assembly was empowered to constitute all courts except the High Court of Chancery and to fix the salaries, fees, and perquisites of the judiciary officers. Judges and other members of the court must be freeholders of the province. Sheriffs would serve for one year only and could not succeed themselves until after a lapse of three years. Henceforth no judge of the Court of Common Right could serve as a justice of the High Court of Chancery. No person could serve in a position of public trust unless he took the oaths prescribed by Parliament in lieu of the former oaths of supremacy and allegiance.

While the legislature was in session, the members of the lower house were immune from arrest, except in the case of high treason or felony. The representatives were apportioned as follows: for Bergen County: Hackensack, one, Bergen, two; for Middlesex County: Woodbridge, two, Piscataway, two, and Perth Amboy, two; for Somerset County: one; for Monmouth County: Middletown, two, Shrewsbury, two, and Freehold, two; for Essex County: Newark, two, Elizabethtown, two, and Aquickanonk-New Barbados, two. This house of twenty-two was the size of the March 1699 session.

The acts of rights and privileges contained a number of miscellaneous provisions such as proper safeguards for estates of feme covert and for the proper attestation and proving of wills. Another provision forbade the pressing of men into military service outside the province except in case of attack; nor was an inhabitant, in time of peace, obliged to quarter soldiers in his home. No man could be imprisoned or otherwise deprived of his liberty but by the judgment of his peers—trial by jury. Justice must not be sold or delayed. No man could be put off his lands nor in any other way "destroyed" without due course of law. In criminal cases the grand jury would present the offense, then would follow a trial by jury for the offender. Suitable bail must be allowed except in cases of treason and felony. Martial law could be exercised only against soldiers in time of war.

No person professing faith in God and in Jesus Christ could be molested or called into question on matters of religious concernment unless he disturbed the peace. This concession did not apply to Catholics who "worshipped contrary to the laws of England." Finally, this act must not in any way infringe the liberty or privilege of any grant or charter already granted.[19]

On May 9, 1699, before the assembly reconvened, Basse stated to the council that he must return to England. He needed to pursue the *Hester* case and consult with the proprietors. He announced that Andrew Bowne would be deputy governor. A week later, Bowne took the oath of allegiance to the King and swore faithfulness to the interest of the proprietors.

The opposition to Basse, evident from the beginning, because of his lack of an approbation, quickly coalesced behind Lewis Morris, then twenty-seven years of age. Basse had dropped Morris from the council. On May 9, 1698, when the Court of Common Right convened for the first time during the Basse administration, Morris demanded to know by what authority the court was kept. Present on the bench was the Basse council: the governor, Bowne, Bishop, Dennis, Hartshorne, Warne, and Samuel Hale, of Woodbridge, a new member. When the court answered, "by the King's authority" Morris denied it. When the court asked who besides himself was dissatified, Morris replied, "one and all." Richard Townley, irked because of the proprietors' efforts against him, and Andrew Hampton, an Elizabethtown juror and soon a member of the assembly, and several others shouted, "One and all." Basse ordered Morris to withdraw, but he refused and "gave the Governor very Saucy Language." When Basse ordered the constables to arrest him, Morris drew his sword. The court fined Morris £50 for his contempt, and he was committed to prison until it was paid. With the help of friends, he escaped from the log house which served as his prison.

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[19] Leaming and Spicer, 368-372.

Morris harassed Basse throughout his administration and encouraged opposition to Basse and the proprietors in the towns. In what his enemies later called his "Red-hott Letters," the first dated in July 1698, he hit out wildly. He launched a vicious attack upon the proprietors—"base, inconsiderable persons who really have not the right to govern." He labored the argument that though the right to govern might pass to the Duke, the latter could not bestow it upon twenty-four men. No one, he charged, could apprehend them for their misdeeds; no one could levy distress upon them; their lands were exempt from taxation while those who purchased from the Indians with a license from Governor Nicolls must pay quitrents. The proprietors, in possession of the government, not only kept the price of their lands high but placed a high price upon their quitrents. They issued equivocal statements: for example, that they had purchased free ports, while Basse asserted that they were created by Parliament; that lands possessed for seven years should not be subject to resurvey, yet demanded resurvey and repatenting after twenty years' possession; that Hamilton was disabled as a Scot, yet they appointed Gordon as secretary and Willocks as surveyor general. Morris excoriated the quitrents as an unjust tax, "upon us & our heirs forever." He asserted, too, that the surveyor general went about pinching patches of land from honest men. The proprietors had threatened to place East Jersey under New York unless the people purchased the quitrents and unless the inhabitants agreed to maintain "some Lousy fellow that they will sent for for a Govern'r." If the proprietors could collect £6,000, wrote Morris, they would not care "one straw whether the King or the Devill has the Governm't." He accused them of not performing any of the services that were promised in the Concessions. He advised the townspeople to retain as counsel William Nicolls "as the fittest man to serve you," and that if Nicolls declined he would assist them.[20]

After Basse's departure Morris attacked the house of representatives for their support of Basse. Basse, he alleged, had written the proprietors that Hamilton had ruled in a despotic manner and that "the Convulsions of the Jerseys were occasioned by him." This wrote Morris was a malicious lie. The house's praise of Basse's courage at the time of the seizing of the *Hester* was ridiculous. Indeed the deputies had accepted Basse when they well knew that nothing would have satisfied the inhabitants but the King's approbation. They also knew that Basse had no approbation. In March 1699 they had adopted a revenue tax that would ruin the province; they had made a "lying, flattering address to Basse; they had denied him [Morris] the King's writ, & other your little, mean & unjust proceedings."

In April 1699, before Basse left for England, Morris was accused by the council of seditiously assembling with others in Perth Amboy with the intention of subverting the laws of the province and "by malicious & reproachful words asperge the Govern'r of the Province." Morris and Willocks were haled before the council and ordered to give security for good behavior and to appear before the Court of Common Right in October. Should they refuse, they would be sent to jail. Morris asked for an hour to consider the consequences; then he and Willocks refused to put up the bail of £300. Morris denied that he had committed any overt act. These startling events took place on May 10. Basse's last council meeting before departing for England. On May 12 a grand jury indicted Morris, Willocks, and Gordon for stirring up opposition in the towns against the revenue act of March 1699, a violation of the law for "the better maintenance and upholding the authority of this province."[21]

Events had moved swiftly. On May 13 a large number of men from Elizabethtown, armed with clubs and staves, attacked Woodbridge jail and freed Morris and Willocks. Among the participants were a number of well-known persons including Justice Benjamin Price, Isaac Whitehead, and Jonathan Ogden, Jr. On May 16,

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[20] Edsall, *Jour. of Court of Common Right*, 311; *N.J.A.*, III, 476-482 *passim*, 487-491; Whitehead, *East Jersey*, 199n.

[21] *N.J.A.*, II, 399; III, 481-482, 491-495; XIII, 267.

Morris and Willocks sent by Mrs. Willocks a threatening letter to the council warning, "Your day is not yet out, & it is yet in your Power to follow the things that make for peace, & if you do not, at your door lye the Consequence. Our friends will not Suffer us to be put upon." Since the assembly had reconvened, with Morris succeeding Willocks as a member from Perth Amboy, the situation was awkward for the council. A joint meeting of seven deputies and three councillors, with Deputy Governor Bowne abstaining, was held to determine what action should be taken. The committee informed Bowne that it had agreed to recommend that the assembly would on the next day adopt an act for the purpose of suppressing insurrection in the province. The council then issued a writ instructing the sheriff of Monmouth County to return a grand jury to examine the rioting at Woodbridge. On May 17 the lower house requested the council to take whatever measures were necessary for the safety and welfare of the province.

The meeting of the legislature, May 15 to May 18, 1699, the last session of the assembly under the proprietary government, ended in failure. Deputy Governor Bowne, who was well aware of the popular resentment against the revenue act, told the assembly at the opening that "he had not much to Say, but if there were anything they cou'd think of for the good of the Province he hop'd they wou'd take it into their Consideracon." On the 16th arrived the defiant letter of Morris and Willocks, who had escaped from jail; and on the 17th the house requested the council to take the necessary security measures. On the 18th a committee of the lower house proposed an adjournment! After much probing, Bowne was finally told by Richard Hartshorne, John Barclay, and John Reid of the house that an irreconcilable division had arisen regarding the money bill adopted during the March session. Basse and his council had delayed putting the act into force until certain necessary amendments were adopted. Bowne stated that the council was willing to consider any amendment that was reasonable, but by this time the whole province was opposed to the act. On the morning of the 18th it was learned that the speaker, Harriman, and seven others had simply departed without waiting for an adjournment. Soon there was not even a quorum present. Johannes Stynmets, a deputy from

Bergen, told Bowne that some of the deserters had offered him a guarantee of safety if he, too, would leave.

Bowne remained in office until Basse's return at the end of July 1699. Little of importance took place after the adjournment. Thomas Gordon, suspended on May 9 as clerk of the council, was appointed attorney general by the proprietors. Basse held one council meeting on August 1 and a two-day session later in the month. Though he probably knew that he would be superseded by Hamilton, he busied himself with several matters of little consequence. He had Attorney General Gordon draw up a proclamation commanding the inhabitants to seize Captain Kidd's men if they were found, as reported, in the province; he demanded that Nathaniel Fitzrandolph, sheriff of Middlesex, explain why he had not posted the proclamation against aiding the Darien Scots; and he ordered that those robbing the King's stores at Woodbridge be prosecuted with all severity. At the council meeting of August 24, Basse's last meeting, it was agreed that Attorney General Gordon was not a proper man to conduct the prosecution at the forthcoming trial of Morris and Willocks.

Hamilton was recommissioned as governor on August 19, 1699, by the proprietors, but did not arrive in East Jersey until December. Basse's last public appearance was at a meeting of the resident Board of Proprietors on November 29. Hamilton found the province in a state of rebellious confusion—and it became his unhappy duty to preside over its inhabitants during the period of dissolution.

Morris' enemies never forgot his pronouncements and actions, blaming him for "all the factions and confusions in the Government for many years." In his own Monmouth County, he was the principal in all the disorders; and they accused him, rightfully, of taking the initiative in sponsoring rebellion in all the other counties. Only prudent Bergen escaped the unrest. They recorded that after Morris and Willocks had delivered their brazen letter to the assembly on May 16, 1699, they had paraded a sloop before Perth Amboy, "firing Guns by way of Defiance to the Governm't." Morris was blamed for the violence at Woodbridge where, "with the Beam of a house," the mob from Elizabethtown battered Woodbridge jail to pieces and set him "and his Seditious Companion Willocks at liberty." Morris, at least in the eyes of the governor's council of 1707, was solely to blame for the troubles that beset Basse in 1698 and 1699 and Hamilton following his return in 1700. Morris, young and impetuous as he was, was determined that the proprietorship must end if the people in East Jersey were to live in peace with one another. Orderliness could be established only by the crown, and to the crown he turned with the utmost urgency.[22]

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[22] *ibid.*, III, 406-409, 485-487; XIII, 268-276 *passim.*

CHAPTER XV

The Surrender of 1702

LATE in 1698 the proprietors petitioned the King to approve the choice of Hamilton as governor. They had had enough of Basse. When this request reached the board of trade, Secretary Popple was instructed to consult with Sir Thomas Trevor, attorney general, in order to ascertain whether Hamilton as a Scot was eligible for office in view of the earlier contrary opinion. In due time Trevor ruled that he was qualified, "being a natural born-Subject of England in Judgm't and Construcc'on of Law, as much as if he had been borne in England." In March 1699 Hamilton, anxious to be off to America, requested the board for an approbation. As head of the colonial postal system, he needed to be in America in order to persuade the local assemblies to renew their grants for this service. Since the proprietors of West Jersey similarly petitioned to have Hamilton approved of as governor, the proprietors of both divisions on August 19, 1699, formally commissioned Hamilton but without an approbation from the crown.

Although Governor Basse attended a meeting of the local Board of Proprietors as late as November 29, 1699, and Hamilton arrived the next month, the two, never on cordial terms, did not meet. Basse's last council meeting was held in August 1699, while Hamilton waited until the following April before he called a meeting. No assembly was convened during Hamilton's last term, although he ordered writs of election issued for a meeting in May 1700. The Board of Proprietors met with Hamilton as presiding officer in September 1700, but a second meeting was not held until December, and a third not until the following June. The Board's only interest was the proprietors' status under the proposed terms of surrender. The Court of Common Right held no meeting between October 1699 and May 1700. Since Hamilton was busy in West Jersey, he did not sit as chief justice until October. Basse reached London by February 1, 1700, and immediately offered to give the board of trade an account of the disturbances in the Jerseys. The situation would improve, he wrote, only if the governor were given an approbation or if the government were placed under the crown.[1]

The proprietors had proposed a surrender in July 1699. The board of trade had taken its time about making a reply, meanwhile refusing Hamilton an approbation lest that concession be used by the proprietors as an admission of the right of government. In January 1700 the proprietors again urged that Perth Amboy be accorded recognition as a free port, one of their conditions of surrender. "This is the only thing," they wrote, "that can make the Province of any value to the Proprietors, or give them hopes of re-imbursing their Purchase-Money and other Expenses in Improvements." Since East Jersey had contributed loyally to the defense of the frontiers, "the Proprietors cannot be accessory to their own Ruin by a voluntary surrender." They assured the board that if freedom of port were upheld, "they do not foresee any great difficulty to adjust . . . the other Articles" mentioned in their proposal.[2]

Hamilton was unable to quell the disorders that had begun during the Basse administration. The whole province was stirred up against the proprietary government, and Hamilton's lack of an approbation did not help the situation. Conditions in West New Jersey were not much happier. On March 4, 1700, when the five justices of Middlesex County proceeded to the Piscataway town hall to open the county court, they found the door nailed shut and were told that the building was the property of the town. Four of the justices—Samuel Dennis, John Bishop, Jr., Samuel Hale, and Benjamin Griffith—were members of the council. Dennis ordered the sheriff to open the court room, but Edward Slater and others hindered him. When he kicked open the door, the mob rushed in after him and threatened to throw him out. As Dennis tried to protect the sheriff, Slater grabbed him by the collar and demanded to know why he was there. Dennis answered, "To maintain His Majesty's court." Slater was finally pulled away. Three others demanded to know by whose authority the court was convened and when told, "By the King's," they replied that court could not be held there since it was "the town's house." The justices finally withdrew to the constable's house, where they made a record of the proceedings.

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[1] *N.J.A.*, II, 249-251, 258-259, 310-311, 321; XIII, 275-276; *M.P.E.J.*, 236, 242; Edsall, *Jour. of Court of Common Right*, 318, 322, 323.

[2] *N.J.A.*, II, 294, 303, 308-311.

On March 12, the Essex County Court met at Elizabethtown. One Samuel Carter, who claimed he represented his neighbors, disowned "in an Insolent and contemptious maner," the authority of the court and abused the president, Councillor William Sandford, the justices, the attorney general, and the foreman of the grand jury. The court ordered the sheriff to arrest Carter for contempt, "which may, if not timely prevented, turn to a Convolsion in Govern't to the Ruine of the Collony." It then adjourned until the next morning, amid noise and shouting, "which seemed Rather to Looke like a Rebellion than otherwise." The leaders of the disturbance included prominent men such as Samuel Whitehead, Benjamin Price, Ephraim Clarke, Samuel Potter, John and William Like, and Joseph and Jonathan Haines.[3]

In July 1700 Andrew Bowne and Richard Hartshorne wrote the board of trade concerning the rebellion. Their letter contained the startling news that Hamilton had restored Lewis Morris to the council as the only man who could force the province to accept him as governor without an approbation! Morris had declared that the people must submit to Hamilton or he would embroil the province in bloodshed. They described the course of the violence in Monmouth County, where Morris was a resident. In Middletown, they wrote, several persons had been seized by the sheriff and forced to give security for good behavior, and one who refused was placed in custody. When it was learned that Richard Salter, John Bray, and several others would soon be apprehended, their friends attacked the newly appointed Scottish sheriff, John Stewart, and forced him to flee. The people of Middletown had planned to meet on July 19 to free the prisoner. But when Morris and Leonard, another councillor, learned of it, they notified Hamilton, who appeared with a band of armed men. They proceeded to the tavern and demanded delivery of Salter and Bray. Meanwhile, a hundred Middletown men, armed with clubs and staves, had assembled and marched to meet the governor and his henchmen. Heads would have been broken if cool counsels had not prevailed. Tension was eased when the prisoners agreed to give bail for good behavior. The freemen of Monmouth, including the Scots—always partial to Hamilton—were now six to one against recognizing him as governor, and all were opposed to Morris.[4]

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[3] *ibid.*, 313-317.

Another letter, unsigned, written to Basse, expressed sadness that the inhabitants were unwilling to keep the peace until the crown had decided the future of the province. Morris had been appointed by Hamilton as president of the council with orders to subdue those in opposition. When complaints were made to the governor about Morris' boast that he would embroil the country in blood if necessary, the governor and Samuel Leonard upheld him. This letter, too, described the riot at Middletown. Hamilton had mustered 40 to 50 men as against 170 from the town. Unable to take Richard Salter and John Bray prisoners, he left orders for Morris to arrest them. Monmouth County then sent emissaries to Middlesex and Essex to decide what should be done. All agreed that Morris should be resisted. Dennis and Bishop, who had disowned Hamilton's proceedings, stated that they advised the governor not to begin any disturbance until it was learned what was being done in England. But Morris and Leonard were hot-headed and would plunge the province into chaos if not prevented. The people were resolved to take Hamilton, Leonard, and Morris into custody until the crown decided what course to pursue. All, however, were hopeful that the crown would appoint some person to keep the peace until a royal governor was chosen. Great confusion had resulted from harassing some and jailing others. Whole towns were rising, resolved to stop arbitrary proceedings. Basse's correspondent alleged that it was not to the King's interest to have certain officials in places of public trust. It was being rumored that King James's health was being drunk.

On August 27, 1700, at the Monmouth County Court meeting in Shrewsbury, a grand jury presented its findings on the Middletown disorders. On the bench were Lewis Morris, president, and Justices Samuel Leonard, Judah Allen, Samuel Dennis, and Anthony Pintard. The jury indicted fifteen men and one servant, including Salter and Bray, for riotously assembling and assaulting John Stewart, the sheriff. They were charged with beating Stewart and

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[4] *ibid.*, 327-329.

Henry Leonard and breaking their swords, a breach of the King's peace.[5]

The next major disorder took place on September 10 at the Essex County quarter sessions at Newark. William Sandford was president of the court and John Curtis, Elias Michelson, and Theophilus Pearson were associate justices. At the opening the old disturber Samuel Carter demanded by what authority the court sat and received the usual reply. On the first case, when one Samuel Burwell refused to give security for the maintenance of his bastard child, the court ordered the constable to take him into custody. This was the signal for an attack upon the constable by Carter, Thomas Johnson, Joseph Burwell, and others. Sandford was pulled off the bench by Abraham Hatfield and Daniel Crane. John Looker, another professional intransigent, hit Sandford with his fist; William Looker, Jr., struck him with a stick; John Clark tore his wig from his head; and Daniel Crane seized his sword and broke it. The other justices were cursed and had their clothes torn from their backs. The constable had his hair pulled and his staff thrown out-of-doors. The justices adjourned the court.

On September 12 a mob of 60 horsemen rode over from Elizabethtown with the avowed purpose of freeing one Joseph Parmeter from prison. Their leaders, Samuel Carter and Samuel Whitehead, came to Justice Pearson's house and demanded the keys to the prison. They shouted that Sandford and Curtis had usurped power in sending a man to jail. Pearson contended that Parmeter had been incarcerated lawfully and could be only lawfully released. He proposed that two of them bind themselves that when Parmeter would appear in court, he would be released from custody. Asked by what power they would free Parmeter otherwise, Whitehead held up a club and shouted, "by this power." All present raised their clubs. The mob then set out in search of the sheriff, Robert Smith, whom they located at John Johnstone's house, and took him away. They forced him to surrender his keys, then freed Parmeter. Soon after, a grand jury with Joseph Harrison as chairman named 36 Elizabethtown men who had participated in the riot.[6]

In the early fall of 1700 the inhabitants of Elizabethtown and others nearby, more than two hundred in number, signed a petition to the King, in which they recited their grievances against the proprietors. They alleged that with the full encouragement of Governor Nicolls they had purchased lands from the Indians and later, with licenses from the Carterets, other lands. Yet, under the pretense of collecting quitrents, their chattels and goods had been distrained and a number of them had been ejected. In spite of a legal decision in their favor in the Jones case, they had suffered additional molestations, to the loss of several hundred pounds. Many of the lands they had purchased by license had since been patented by the proprietors. In addition, they entered the rather dubious claim that from 1689 to 1692, a time of war, the proprietors had failed to maintain a stable government, leaving the colony defenseless. The proprietors were accused of neglecting to provide arms, ammunition, and stores to aid the inhabitants. Moreover, they had dismissed Hamilton because he was a Scot and appointed Basse, whom they claimed had the approval of the crown. Then they returned Hamilton but without an approbation. In contempt of the law, they had appointed Thomas Gordon and George Willocks, both Scotsmen, to the offices of secretary and attorney general, respectively. The petitioners requested that someone with the approbation of the crown be appointed governor. A man was needed who could settle, without prejudice, the controversies between the inhabitants and the proprietors.

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[5] *ibid.*, 329-333.

[6] *ibid.*, 333-340. Another grand jury meeting named 49 men.

Hamilton, in June 1700, had written the proprietors asking for information regarding the surrender negotiations. The inhabitants, he stated, had convinced themselves that if the proprietors were deprived of the right of government they could obtain lands merely by Indian purchase, throw up their proprietary patents, and cease paying quitrents. To show the temper of a certain faction, he was enclosing a copy of their remonstrance. John Royce, long a member of the council, was their ringleader and stood to gain personally. Holding an old patent for 20,000 acres of uncertain metes and bounds, he received a new patent for 6,000 acres at a rent of only £5 instead of the usual 1/2d. per acre. Since the proprietors had failed to require him to surrender his old patent, he now claimed the original 20,000 acres. To have neglected to obtain the surrender of Royce's old patent was a great oversight. Hamilton also advised the proprietors that it would be less harmful to them to lose the right of government in a trial than by a surrender. No matter on what terms the surrender was effected and no matter how beneficial to the inhabitants, they would blame the proprietors for yielding what they believed to be their due. If East Jersey were united to New York, which he understood was a possibility, the people would expect East Jersey to have the same number of representatives in the general assembly as New York, though he knew that the board of trade would allot East Jersey only one-sixth as many. A great clamor would arise if the freedom of Perth Amboy as a port were not achieved. Rather lose these and other advantages so treasured by the people in a trial! Should the crown uphold the validity of Indian titles, the proprietors would lose all their benefit; but a legal decision that would lose them the right of government but leave them the right of soil would free them from the charge that they had made a deal with the crown to maintain proprietary patents and quitrents.[7]

Since Hamilton had little hope of obtaining a revenue measure, he did not summon an assembly until May 1700, the time designated by law. He had placed the actual date of the meeting for May 30, after the adjournment of the West Jersey assembly, because he hoped the orderliness of that meeting would provide a good example. At the opening session Andrew Bowne stated that in behalf of the house of representatives he was asked to inquire by what authority Hamilton had convened an assembly. Hamilton replied that Bowne himself at a council meeting had heard him read his qualifying commission soon after his arrival. John Royce then demanded if he had an approbation, to which Hamilton stated that Royce himself had accepted Basse without an approbation and that Royce, also, had heard him explain why the crown had withheld it. The board of trade, he said, had informed him that although they would not forbid him to take office as governor, they could give him no approbation until a trial was determined or a surrender consummated. To grant him an approbation would, in their eyes, constitute a recognition of the proprietors' title and by consequence the yielding of the crown's rights. The board realized, however, that during the interim the people could not be without a government. Since he had agreed to act in accordance with the laws of England, he believed that he had leave to govern under a proprietors' commission. The proprietors' government was, therefore, in force until the outcome of the trial was known since obedience to the proprietors had been commanded by Charles II and no succeeding ruler had absolved the inhabitants from it. It could not be charged as a crime against him or the proprietors if he acted without an approbation. Only the King, certainly not the inhabitants, could challenge his governing without an approbation. When Royce insisted that he could not govern without the approbation, Hamilton charged the house with using the lack of an approbation as a pretext for taking the government out of the proprietors' hands. This was grossly unfair since the proprietors had been at great charge to maintain a government. If East Jersey had not enjoyed the status of an independent colony during the last war, its proportion of the imperial defense charge would have amounted to £15,000.

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[7] *ibid.*, 322-327, 437-442.

After the representatives withdrew, Hamilton learned that they would not consider a revenue bill. Fearful, also, that they would use the authority of the assembly for countenancing their petition, he had dissolved them. Because of arguments among themselves, Hamilton wrote, they had neglected to choose a speaker, which constituted an automatic dissolution. He concluded his letter by recommending that the proprietors bring the issue of government to a close by a trial.[8]

The petition of the inhabitants was referred to the board of trade. On November 16, 1700, Secretary Popple transmitted a copy to the proprietors requesting them to consider it without delay, and he warned Dockwra on December 3 that if no answer was received shortly the board would make an ex parte report to the royal council. Dockwra assured Popple that a report would be forthcoming, explaining that it had been difficult to obtain a quorum because a number of the proprietors lived outside London in the country. The "Answer," dated December 9 is the classic defense of the East Jersey proprietors and the last that was forthcoming. Their pleas and explanations came too late to influence the board in its determination to conclude the surrender to the crown; in fact, the final paragraph of the "Answer" reminded the board that the proprietors, even before the remonstrance had reached them, "had Unanimously agreed to Surrender the Government of both Provinces" under terms that their legal counsel had deemed equitable. These proposals, too, were ready for delivery.[9]

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[8] *ibid.*, XIII, 277-278.

The "Answer" was a carefully prepared document, despite the fact that the proprietors had no hope of a reversal of imperial policy. Since they did wish to secure as favorable terms as possible, they were solicitous in putting their best foot forward. They thanked the board for revealing to them the remonstrance and for allowing them ample time for making a thorough study of its contents. The complaints of the inhabitants, they held, were made by "a few factious and Mutinous people impatient of any Government." These malcontents had no just case against them or their administration but were plotting to deprive them of their right to the soil and to their quitrents, both of which were derived from royal grants and were purchased with large sums of money. Here, in essence, was a radical conspiracy "to strip His Maj'ty of his Regall Right to that and other Plantations and to render them independent of the Crowne." Here they touched upon a sensitive point, for the board viewed with alarm separatist tendencies current in a number of colonies.

The proprietors began with a recitation of their title to the soil dating from the grant of Charles to the Duke. They themselves had purchased their lands from the Indians or had licensed certain planters to do so. Such proprietary lands were later confirmed to the planters by means of patents carrying small quitrents. Most of the grantees had paid their rents until a few militants broached the idea that the natives were the sole and absolute owners of the soil and that the King's right was "national and arbitrary." In view of these doctrines some of those who had signed the remonstrance now refused to pay their quitrents. Several others, recently purchasing from the Indians, had also refused to do so. If these doctrines were upheld, the proprietors argued, all royal grants were illusory, and the petitioners were entitled to deny the crown's right of government and soil and set up a government of their own.

The proprietors attempted to refute the claims under the Nicolls' patents. Nicolls in 1664 was governor, but he had no power under his commission to grant any land. Even if he had, this power was nullified five months before he issued any patents because the Duke of York had granted the province to Berkeley and Carteret. Thus any license issued by Nicolls to take up land was subject to the condition that such lands were held by patent from the proprietors and subject to quitrent. Actually, though the petitioners "artfully refrained from mentioning it," the licensees of Nicolls actually took up proprietary patents. Though the proprietors might well have refused to honor the Nicolls patents, they generously confirmed "those crazy titles" and never molested the occupants. Now, advancing the rightfulness of Indian titles, the petitioners had made distraint upon some of them and had brought an action of ejectment against Jeffrey Jones, who had no patent and would not apply for one. The jury, all inhabitants and planters, gave "a general verdict" against the proprietors contrary to the instructions of the court and the consent of counsel on both sides, who had agreed upon a special verdict.

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[9] *ibid.*, II, 340-341, 343-344, 352.

When the proprietors, through their agents, granted a planter a license to purchase land from the Indians, it was with the understanding that he would purchase a certain part of it and that the remainder would be for the use of the proprietors. Thus John Royce had a license to take up 20,000 acres from the natives, of which he would purchase 6,000 acres at £5 annual quitrent. The balance was set out for the use of three proprietors. But Royce, "puffed up" with his notion, refused to pay the quitrent upon his patent and under the guise of the Indian title claimed the entire 20,000 acres.

As to the charge that the proprietors had abandoned the government from 1689 to 1692, this was notoriously false since King James had seized the government of East Jersey and the neighboring provinces and placed them under the rule of Sir Edmund Andros. The proprietors were prevented from conducting any government until Andros was taken prisoner in Boston. When their right of government was restored, they first chose John Tatham, then Joseph Dudley, but with the people "Scrupling to obey," they had commissioned Andrew Hamilton, who had served to the satisfaction of even the petitioners themselves. It seemed odd that such a complaint was raised after a lapse of seven years. Rather than leaving the province defenseless, the proprietary government had established a militia with four training periods a year. Though they had not provided the militia with arms and ammunition, neither had the King done so in his colony of New York.

The proprietors, when the Act for Preventing Frauds in the Plantations was passed, were misled into the belief that a Scotsman was disabled from holding office. To avoid violating that act they had appointed Basse governor. Basse had indicated to them that he was approved of by the King and, believing this, they had so informed the inhabitants. Lacking the approbation, however, Basse was opposed by many of the people. When the proprietors, later received a reverse opinion from the law officers of the crown, that Scotsmen were natural-born subjects of England, they reconstituted Hamilton governor. They had endeavored to obtain an approbation for him, but because of the probability of a trial over the right of government, the board had refused to issue one. Simultaneously the board had informed them that it did not intend this refusal as inhibiting the proprietors' right of government until it was determined by court, and, being sensible that the country could not subsist without some government, it led the proprietors to believe that they would be safe in commissioning him. Hamilton immediately told the inhabitants of this arrangement, but the petitioners, believing that if the government were taken from the proprietors they would no longer possess the right to soil or quitrents, opposed Hamilton by force. Now they blamed the proprietors for neglecting to provide a government which they themselves had rejected. It was true that several public officials were Scotsmen, but "having resided in the province for years and risked their lives and estates there," they were adjudged English "by their interest."[10]

The last disorders of the proprietary period occurred on March 25-26, 1701, at the Monmouth sessions court at Middletown. Hamilton presided, while Judah Allen sat as an associate with councillors Samuel Leonard and Lewis Morris. The pattern of revolt was now well established. While the court was examining one Moses Butterworth, accused of smuggling, Samuel Willet, an innholder, rose and stated that the governor had no authority to hold court. He went below and summoned a company of militia, which by design was drilling outside. Forty militiamen crowded in as the drummer beat upon his drum. The hubbub was so great that the examination of the prisoner could not proceed. Benjamin and Richard Borden attempted to free Butterworth, and when the constable and the undersheriff tried to prevent them, a scuffle ensued in which the mob aided the prisoner and the Bordens. The court attempted to recapture the prisoner, and though the Bordens were slightly wounded, Butterworth got away. The mob, now 100 strong, seized the justices, the attorney general, the undersheriff, and the clerk of the court.

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[10] *ibid.*, 344-352.

On March 26, the day following, the court convened with Leonard presiding and Allen, Dennis, and Anthony Pintard on the bench. The court was engaged in impaneling a grand jury when one Eleazer Cotterall, summoned for jury duty, objected to its authority. The court ordered the sheriff to take him into custody for contempt. James Bollen, former clerk of the court, was ordered to surrender the records, but he refused unless the court guaranteed him protection up to £10,000. In the afternoon the court haled before it all those denying its authority and those refusing to serve on the grand jury, Cotterall was fined £5 and Richard Salter, a familiar gadfly, £15 for high contempt and misbehavior. Nine others, including John Bray, were fined 40s. each.[11]

With continuing disturbances in both Jerseys, the British authorities were bombarded with reports and pleas to do something. Locally, John Johnstone, a member of the Resident Board, sent an account of the Middletown riot to the East Jersey council begging it to take steps to maintain the King's peace until the King's pleasure was known. The members of the New York council thought it their duty to inform the board of trade of the "ill state of the Jerseys." Hamilton, once of great assistance in the defense of New York, was unable, because of the licentiousness of the people, to contain them "within the decent and necessary bounds of government." They requested the crown to restore the public peace in order that New Jersey would not become a refuge for deserters and criminals from New York.[12]

In May 1701 Hamilton and his council petitioned the King to command the inhabitants of East Jersey to yield obedience to the government of the proprietors. This plea was signed by Hamilton, Dennis, Hale, and Bishop—all members of the council. Hamilton explained his dilemma to the King's council as follows: he had requested an approbation but, because of some doubt regarding the validity of the proprietors' right of government, the board of trade could not recommend it but had indicated that if he governed in accordance with the laws of England, he might be commissioned pending a final decision about the right of government. In December 1699 he had proclaimed his proprietors' commission in the province and had taken the required oaths. As yet he had received no approbation, nor had the crown instructed the inhabitants to obey the proprietors' government. Meanwhile, the "licentious part" of the people, "who look on all Governm't to be a Yoke," declared that he had been rejected by the crown and that all his acts were null and void. This was enough, wrote Hamilton, "to cutt in pieces the Reins of Governm't and run yo'r people into Anarchy and confusion." He described the rioting at Middletown and his imprisonment. He had told the people time after time that the crown's withholding of an approbation was for reasons of state, certainly not to foment confusion and disorder. If the province was to avoid bloodshed, the petitioners wrote, the crown must command obedience to constituted authority until His Majesty had decided the question of government. The proprietors of both Jerseys also signed a petition to the lords justices asking that Hamilton be approved as governor until the terms of the surrender were adjusted. Some in the province "impatient of any Government" had opposed Hamilton's administration because he had not secured an order in council granting him an approbation. The divisions in the Jerseys were now so great, the petitioners stated, "that the publick peace is daily violated, and the publick Justice obstructed."[13]

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[11] *ibid.*, 362-367.

[12] *ibid.*, 366-369.

Hamilton now enjoyed, by comparison, little of the popularity that had marked his former term in the province. The administration was a "lame duck" operation as both the government and the people recognized. The council met infrequently. Its first meeting did not take place until April 1700, although Hamilton had arrived the previous December. A proclamation was issued convening a general assembly during the last week in May, and the Court of Common Right was adjourned until the first week in June. The council met on May 30 in conjunction with the meeting of the assembly. The deputies joined the council, and with Andrew Bowne as their spokesman asked Hamilton by what authority he acted. Hamilton replied that since it was customary for the representatives to see the governor's commission he would have it read. He then gave the assembly a full account of the steps he had taken to obtain an approbation. After this meeting, which hardly deserves the name of general assembly since no speaker had been elected, no further meetings took place. "After some debate they did all withdraw &c." At the next council meeting—in August—the council, at the governor's request, decreed that tumultuous, seditious, or unlawful assemblies be prohibited and that all officers and all citizens be required to suppress such assemblies. A proclamation to this effect was posted in all towns.[14]

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[13] *ibid.*, 369-376.

The December 1700 meeting of the council marked the beginning of a revolt against William Dockwra, the powerful executive secretary of the proprietors, and the absentee chief secretary and register of the province. George Willocks, deputy for Dockwra and receiver general, charged that Dockwra was a corrupt and unjust man, unfit for the office of trust he held. As a member of the Resident Board, Willocks requested the privilege of presenting his charges to the provincial council. He was told that they would hear him in March, but it was not until August 1701, upon his persistent urging, that he was actually given the privilege of the floor. Several other members of the Resident Board requested and received permission to attend as visitors while Willocks presented his charges. He accused Dockwra, on his own responsibility, of sending an instrument to the province, signed only by himself, designating himself as the sole agent of the proprietors and asserting that any order bearing his signature should be regarded as having been signed by a majority of the proprietors. This document, which bore the date of April 29, 1686, was exhibited by Willocks.

Next, Willocks charged that Dockwra had imposed heavy fines upon local landowners without the opportunity for a hearing, and he cited as an example the fines imposed upon Lawrie and Rudyard in January 1687! He charged also that Dockwra had instructed the governor to make inequitable dividends of land, in proof whereof he quoted an order of January 1687 directing that Governor Robert Barclay should have as much land as he needed to make up his first dividend of 10,000 acres. He accused Dockwra of calling in patents, of divesting persons of their estates, and of defacing records. To substantiate this charge he produced a copy of an order of September 14, 1686, to the effect that if any proprietor had taken up more than 2,000 acres of his dividend, the patent be declared void and the land be awarded to others. Dockwra was accused of sending orders to the governor and council to insert clauses voiding the estates of grantees. Willocks cited other orders of Dockwra inserting clauses in several patents declaring them null and void unless their purchasers were in the province within a year. He was also charged with sending orders prohibiting the granting of land to several proprietors who were legally entitled to it. Dockwra's order of January 1687 had prohibited the granting of land to any proprietor who had not paid his assessments. Willocks also accused Dockwra of refusing to do justice to an injured party unless he was paid a bribe. He submitted a deposition showing that a tract of land he purchased from Gawen Lawrie contained only 300 acres and that on appeal the governor and council refused him the difference on the ground that the adjoining land had already been granted to several English proprietors. Willocks, when advised to take up the matter with the proprietors, saw Dockwra, who opposed his request but suggested that if he deeded him 850 acres he was interested in, he would get his land. But when Dockwra had asked Willocks to sign a fictitious receipt for £150, Willocks categorically refused. Willocks swore also that Dockwra had made changes in the proprietors' minutes and had also written a scandalous libel against Joseph Ormston in the minute book which Ormston had torn out in his presence.

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[14] *ibid.*, XIII, 276-278.

Thomas Gordon then made a deposition that he was with Willocks when Dockwra demanded a receipt for the £150, which Willocks never received. He added that he knew that Willocks was also forced to give Dockwra a bribe to obtain land at Cheesquakes to which he was entitled. Gordon also attested that Dockwra had tampered with the proprietors' minutes, inserting the libel against Ormston and changing the instructions to Governor Basse. Willocks, appearing again, charged that Dockwra had ordered his agent to corrupt the province surveyor and quoted from a letter written in 1690 in which Dockwra had directed his agent to obtain whatever aid was needed to obtain good tracts and to see to it that the surveyor "be made a fast friend."[15]

The council, after requesting the visitors to leave, voted that Willocks had made good his accusations and ordered that copies be sent to the proprietors to afford Dockwra an opportunity of refuting the charges. Immediately after, the council received a petition signed by six resident proprietors—Robert Burnet, David Lyell, Miles Forster, Thomas Warne, John Johnstone, and John Barclay—demanding that Dockwra be suspended as secretary and register until the London proprietors had considered the case. The council was agreed that if the principal charges were true there could be no question about Dockwra's suspension. They wished, however, to give him an opportunity of disproving the specific charge that he was responsible for the order of September 1687 instructing the governor to divest certain persons of their lands. Deputy Secretary Gordon was ordered to maintain custody of all public papers in the province until Dockwra acquitted himself. It is difficult to determine how venal Dockwra actually was. Hamilton, himself, in May 1688 took a stockjobbing attitude toward Dockwra when he wrote, "As my kindness to you and yo'r family is really tender so I have witnessed it in the choice of yo'r Land: as in the shedule annexed." Continuing, he related that he located the Stancliffe property on the Millstone River, "but remember I had an eye by that Neighborhood and to make Mr. D's land more valuable."

Long after, in December 1702, months after the surrender, Willocks appealed to the Resident Board, "in whose power it is to displace officers who shall be found to misbehave themselves in their offices," to remove Dockwra as chief secretary and register. In his opinion the charges he had presented to the council had been fully proved. The Board, since Dockwra had not cleared himself, ordered him removed from office. It further resolved that no person be eligible for the office of secretary and register who was nonresident. Gordon, so that Dockwra could not attach any provincial papers, was ordered to give his records to the custody of the council. He was then elected secretary and register of the province and secretary of the Board. John Reid was at long last appointed surveyor general and Willocks, chief ranger.[16]

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[15] *ibid.*, 279, 283-291.

Returning to the proceedings of Hamilton's council, a fantastic event took place on June 17, 1701, when Andrew Bowne exhibited a commission, signed by Dockwra and other proprietors, superseding Hamilton as governor. Forewarned, Hamilton had invited a number of the resident proprietors to be present. One of them, Lyell, who had examined the commission, labeled it as defective since it was not signed by a majority of the proprietors. He added that it was surreptitious and probably executed without the knowledge of many proprietors. He believed further the commission was inspired by Richard Salter, a leader of the Middletown court riot of March 1701, who with Dockwra had persuaded some unwary proprietors to sign it. Lyell, in behalf of the resident proprietors, read a protest strongly opposing Bowne's commission. Hamilton asked Bowne to answer the charges of resident proprietors, but he refused, stating that whether it was a lame commission or not he intended to proclaim it. Hamilton then ruled that the commission was inadequate and that he would not surrender his office since the inhabitants would be without a legitimate government. Should Bowne proclaim the commission, he would declare a state of riot. Bowne hotheadedly challenged Hamilton to punish him, and after the governor left the room, he had the commission read. The next day the council adopted a resolution informing the people that Bowne's commission was defective and that none should obey it.

The council then addressed a letter to the proprietors explaining why they had advised Hamilton not to surrender the government to Bowne. Several of them reported hearing John Royce and Samuel Walker say that Bowne's commission was worthless but that they would use it to get Hamilton out of the way, then get rid of Bowne on the ground that his commission was defective. Their final step would be to "lodge the Government in the People for want of necessary powers from the proprietors in the Province to appoint a Governour." The protest of the resident proprietors was ordered spread upon the minutes of the council. In its letter the council also expressed surprise at the issuance of a commission to Bowne, since it "would tear open againe the wounds of the Province that were allmost clos'd up," and added that the faction backing Bowne only wished to use him in order to get Hamilton out of the way. It stated bluntly that the proprietors had been deceived by the insinuations of Salter and that it was strange that they had allowed themselves to be influenced by people of his ilk. In conclusion, it begged the proprietors to reach a settlement with the crown on the disputed matter of the right of government, "to an End that ye Convultions of ye Province May Cease."[17]

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[16] *ibid.*, II, 28-29, 31; XIII, 291-292; *M.P.E.J.*, 258-259.

Lewis Morris in a letter to the board of trade written in August 1701 stated that the persons responsible for supporting the Bowne commission were former councillors, disgruntled with the proprietors for removing Basse. In the previous March this faction, on the pretense of rescuing a smuggler, had seized the governor and the justices. Hamilton, rightly, had refused to surrender his office, since the commission was not signed by the necessary two-thirds of the proprietors. The entire stratagem was hatched by five proprietors including Dockwra, while the other four-fifths were ignorant of what had taken place. By this method, observed Morris caustically, there would be a new governor with every ship. Since the government of the province was being prostituted "in the Hands of such people," Morris pleaded that the proprietors, "for His Majesties honour and our safety," might be summarily deprived of the government. In a second letter, written in January 1702, Morris in urging the appointment of Hamilton as the first royal governor again alluded to the Bowne fiasco. Bowne was a peaceable man who had been so nettled by a proprietors' letter censuring Basse and the council, of which he was a member, that he and several others had refused to continue on the council. They had no personal aversion to Hamilton but resented being affronted by the proprietors. Morris blamed Dockwra for setting up divisions in the province. In any event, when Dockwra and his friends learned of the antagonism they had stirred up, they did an about-face and sent Bowne a commission—to the everlasting ignominy of the proprietors in the eyes of the people. Several persons who had always opposed the government had given Dockwra a bribe of £100 to approve a commission sent over in care of Salter, "a person not of the best reputation." Actually Salter was empowered, should Bowne reject the commission, to take over the government himself or to appoint any person whom he saw fit! The resident proprietors had protested bitterly to the English proprietors, asserting that six of them had as much right as six in England to constitute a governor. Since Hamilton's commission had been signed by a qualifying two-thirds, he was abundantly justified in not surrendering his office. Proprietary government in the Jerseys had become a shambles, Morris concluded. Never had the affairs of any colony been so neglected.[18]

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[17] *N.J.A.*, II, 385-386, XIII, 279-282.

In December 1700 Hamilton, at a meeting of the Resident Board, stated that the proprietors had paid him no salary for many years and nothing since his return a year ago. But no quitrents were being paid because of the disorders, and it had been understood that the salaries of public officials would be paid from those receipts. Since there was no prospect of any income from such rents, Hamilton proposed that the Board allow him land in lieu of salary owing him. The Board voted him 120 acres in Perth Amboy township fronting on the Raritan, with permission to sell it to the highest bidder, and unappropriated lands sufficient to reimburse him for any remainder owing him. These could be sold by him at the established minimum price of £10 per one hundred acres. In June 1701, Hamilton's affairs were again reviewed. It was agreed that the arrears owing him came to £559 12s., the figure established in 1694 by the Board and the receiver general. He was allowed then £200 per annum for the period since December 1699, both sums to bear interest at 6 per cent per annum. At subsequent meetings it was reiterated that Hamilton might take up and sell unappropriated lands until fully reimbursed.[19]

The board of trade was in no hurry to act upon the memorial of the proprietors, dated July 5, 1699, proposing a surrender. It had not liked certain of the reservations and believed, correctly, that the proprietors would abandon them in the fullness of time. With confusion and disorder steadily mounting, the proprietors were in an unenviable position. In their well-reasoned "Answer," they had concluded by reminding the board that they had, more than a year ago, offered to surrender the right of government under proper conditions. The disturbances in East Jersey, together with the remonstrance, rendered a surrender necessary for the preservation of their civil rights. They were now ready to submit to the board their redrafted proposals and "doubt not yo'r Lord'pps Approbation of them." On December 17 Secretary Popple wrote Dockwra commanding him to present the proposals at once, in order that the board might study them before making recommendations concerning the terms of surrender to the crown.[20]

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[18] *ibid.*, II, 400-401, 444-447.

[19] *M.P.E.J.*, 208, 238-239, 243-245, 249, 256.

Edward Randolph was heard from again. In February 1701, asserting categorically that the proprietors had a right to the soil but not to the government, he recommended to the board of trade that East Jersey be annexed to New York and West Jersey to Pennsylvania. "The Countrey is too large and the Inhabitants too few to be continued as a Separate Governm't," he concluded. A month later in a summary report on all the colonies, he characterized the Jerseys as "all in confusion for want of Governm't and humbly pray to be taken under his Ma'ties immediate Governm't and Protection." They likewise, he wrote broadly, "receive and harbour Pirates." Basse, now in London again, was also busy. He wrote the board that, learning of the proprietors' "Answer" and of their proposed terms of surrender, he would like, in behalf of the inhabitants, to be accorded the opportunity of proving any of the allegations made by the inhabitants in their remonstrance. He also asked for the privilege of making objection to any of the proposed terms of surrender that were inimical to His Majesty's interest or to that of the people. Late in 1701 Basse wrote again urging the board to give him a hearing. He regarded the matter as exceedingly pressing, for law had come to a standstill in East Jersey, and there was a total neglect in the enforcement of the trade and navigation acts. Basse delighted in fishing in troubled waters; perhaps there was still an opportunity for him. In June he wrote yet again offering to be of assistance. He had just learned that Hamilton's commission had been vacated by the proprietors in favor of Bowne. The grant of another commission without an approbation would only increase the difficulties in East Jersey, he wrote. He suggested that both Jerseys be united with the lower counties of Pennsylvania (Delaware) and be put in charge of one who was familiar with the area and could thus prevent violations of the navigation acts. Basse was not a self-effacing man. In July he presumed to lecture the board on the best way to remedy the evils of the charter and proprietary colonies. By this time the board had lost interest in Basse.[21]

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[20] *N.J.A.*, II, 352, 353.

In July 1701 a petition was received by the lords chief justices from 224 inhabitants of East Jersey, essentially the same persons who had sent the remonstrance of the year before. The petitioners stated that disturbances had arisen because neither of the proprietors' appointees, Basse or Hamilton, had had an approbation. Hamilton, by force of arms, had held courts, imprisoned and fined those who refused to obey his illegal authority, and commanded others to take up arms against their peaceable neighbors. The petitioners requested that the crown direct the proprietors not to appoint a governor unless he brought with him an approbation. Only a really qualified man could resolve the differences that had arisen between the inhabitants and the proprietors.[22]

By August 1701 Lewis Morris was in England as the agent of the resident proprietors. He submitted a long memorandum upon the disorders to the board of trade. He was making this statement, he wrote, at the suggestion of the board of proprietors, which had made available to him the petitions and statements he had received. Morris, a Hamilton man, secured the confidence of the board of trade to a degree never approached by Basse. Morris contended that Basse's council had accepted Hamilton as governor, though he, like Basse, had only a proprietors' commission. All but four had accepted Hamilton's invitation to remain on the council, and three of the four refused only because they were tired of public business. Nevertheless it was these men who joined others in stirring up the people on the ground that Hamilton lacked an approbation. The proprietors' commission to Bowne had not helped matters, and Hamilton, Morris thought, was justified in not surrendering his office. Morris pointed out that the signers of the petition included the names of those who had participated in the disorders, especially the riot of March 25, 1701, and he recommended that those persons be punished. The hardships that were complained of were those of their own making. Hamilton also recommended that the crown grant an approbation to the proprietors' governor, whoever he was, until the crown appointed a royal governor.[23]

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[21] *ibid.*, 352-353, 356, 357, 360, 391-393.

[22] *ibid.*, 325-327, 394-397.

On August 12, 1701, the proprietors of both Jerseys submitted their memorial on the surrender terms. Despite the fact that their claim to free ports had been upheld by the court of king's bench, they were willing to surrender all rights of government since it was His Majesty's wish to bring all proprietary governments more directly under the crown. They asked that certain rights, which would in no way interfere with royal authority, be reserved to them. These were fourteen in number, as follows: 1) confirmation to them of their lands and quitrents; 2) the sole right of Indian purchase; 3) the liberty of trading with the Indians; 4) freedom of port for Perth Amboy in East Jersey and Burlington and Cohansey in West Jersey on the understanding that crown officers would be appointed to collect the customs and enforce the trade acts; 5) the privilege of appointing the surveyor general and his assistants; 6) the liberty of maintaining markets and fairs in Perth Amboy and Burlington; 7) the establishment of a single royal government for the Jerseys with an annual assembly meeting alternately at Perth Amboy and Burlington; 8) a lower house of 36 members, half from each division, the qualification for voting to be 100 acres of land and for membership in the council, 1,000 acres; 9) an equal number of councillors for each division; 10) a full system of courts, with the supreme court meeting alternately at Burlington and Perth Amboy; 11) appeals to the King not allowable unless the action involved at least £200; 12) all Protestants to be eligible to serve on the council and to hold public office and a law to be passed for the Quakers substituting a proper declaration for the oath; 13) the privilege of choosing the first governor; and 14) the grant of further privileges regarded as necessary to good government, prosperity, and trade. In addition, the proprietors requested an approbation for Hamilton until the surrender terms were adjusted.[24]

In September the proprietors submitted a further petition to the board. It was signed by Lewis Morris in behalf of the resident proprietors, by Joseph Ormston and Gilbert Molleson for one group of London proprietors, and by Thomas Lane and the members of the board of the West Jersey Society for a group of West Jersey proprietors. Explaining that they had already submitted a memorandum to the lords justices relating to the terms of the surrender, they petitioned that they be permitted to choose the first governor. Lacking this concession, "without which we thinke our properties cannot be well secured," they did not feel adequately safeguarded. They recommended Hamilton as the first royal governor since he was familiar with the province's problems, had performed satisfactorily under trying conditions, and was loyal to the crown. With the exception of Dockwra and a small number "of the meaner sort," who preferred Bowne, all factions favored his appointment. Morris believed that Hamilton's supporters embraced the vast majority of the London proprietors, the resident proprietors of both divisions, all the people of West Jersey, and five-sixths of those of East Jersey. Hamilton was painted as an objective, unbiased man who had incurred only the displeasure of law-breakers. The Morris-Ormston group also presented nominations for the governor's council, seventeen in number. The East Jerseymen, "of ye Best Estates," who were nominated were Morris, Pinhorne, Sandford, Leonard, John Johnstone, Pintard, Earle, Samuel Dennis of Woodbridge, and Miles Forster. The West Jersey list included five Quakers—Samuel Jennings, George Deacon, Peter Fretwell, Thomas Gardiner, and Francis Davenport—and three others, Edward Hunloke, Daniel Leeds, and Thomas Revell.

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[23] *ibid.*, 398-403.

[24] *ibid.*, 404-411.

Morris also transmitted a long communication concerning the terms of surrender which, by now, had been referred by the lords justices to the board of trade. The proprietors, he explained, were willing to part with the right of government, but if their requested rights were not granted them, they would stand trial in Westminster Hall or appeal to the House of Commons. Though the board promised that there would be no invasion of those rights, they wished certain assurances. Morris saw little in the proprietors' reservations with which he could quarrel. He thought the proprietors should be allowed to appoint Hamilton. If the people learned that the proprietors had enough prestige to name the governor, there would be little trouble about Article 2, which granted to the proprietors the right of land purchase from the natives. The proprietors also believed it essential that official ports should be recognized in order to place New Jersey on a par with the neighboring colonies. The choice of councilmen could be left to the crown, but if more were chosen from one division than the other, there would be jealousy. The crown might also alter the number of assemblymen, but the proprietors hoped that the qualifications for freemen and representatives would not be tampered with. If there were no qualifications for members of the assembly, "those Persons of best Estate . . . and ye Propr'rs Interests would be at ye disposall of ye tag, rag, and Rascality." Morris closed with the hope that while the surrender was pending, some recognition would be given Hamilton's authority.

When Jeremiah Basse heard of the proprietors' conditions and of their advocacy of Hamilton as governor, he again requested a hearing. He argued that the proprietors had never possessed the right of government and again labored the thesis that Hamilton should not be governor since he was a Scotsman. He reiterated that Hamilton was not above condoning illegal trade and cited that he had countenanced the entry of Scottish goods while governor. This information he attributed to Edward Randolph, the surveyor general of customs.[25]

The wheels of the actual surrender were set in motion on October 2 when the board of trade reported on the surrender proposals to the lords justices. It reviewed the claim of the proprietors to the right of government and found it wanting. Indeed, it did not find that any sufficient form of government had ever been settled in the Jerseys. However, it ascertained that in April 1688 the proprietors had surrendered their pretended right to King James, "which was accordingly accepted by him." Nevertheless, the proprietors had revived their claim under King William and in 1697 had applied for an approbation for their appointee as governor. Since they refused to give security pursuant to the Act of 1696, alleging they could not afford to, approbation had been withheld. Nevertheless they had commissioned Basse and Hamilton to act as governors. The inhabitants for various reasons had opposed these men, always citing their lack of a proper approbation. Petitions had followed charging the proprietors with various shortcomings. Faction had arisen to such a degree "as may endanger the lives of persons and destroy the colony." The proprietors, while asserting the right of government, had offered to surrender it under certain conditions. They asked also for an approbation for Hamilton while the terms were being adjusted. A later memorial had enlarged upon these conditions. The resident proprietors under date of June 19 had signed an unconditional surrender, insofar as it was in their power to surrender, and had sent it over by Lewis Morris. This document was signed by Lyell, Forster, Barclay, Gordon, Burnet, Warne, John Johnstone, and Michael Hawden.

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[25] *ibid.*, 412-420.

The board of trade was convinced, in talking with various proprietors, that all wished to surrender the government but that they were radically divided over the appointment of Hamilton as royal governor. The board recommended to the lords justices that the crown immediately constitute a government by royal commission over the Jerseys. The proprietors' claim to a right of government was without authority; it could not have been assigned by the Duke to another, much less divided. The board had recommended in April that there be a trial at Westminster upon the issue, but no such determination had been made; nor, indeed, had any proceedings been initiated. Meanwhile, disorder in the Jerseys was so great that the public peace and the administration of justice had been violated. The board further advised that the governor's instructions, not the terms of surrender, should contain a frame of government comprising a council, an assembly, and the list of civil and military officers, together with the needed articles securing the proprietors and the inhabitants their property and civil rights. All other guarantees to the proprietors should also be included in the instructions. The governor's commission and his instructions should be drafted immediately and submitted to the proprietors in order that their surrender might be made effectual in law; but should the proprietors reject the terms or the proceedings, alternatives would be immediately undertaken.[26]

On October 5 the board was directed by the lords justices to prepare the drafts of the commission and the instructions; on November 24 Popple transmitted these documents to the proprietors; on

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[26] *ibid.*, 387-390, 420-427.

December 8 Attorney General Northey was called into consultation regarding the methods by which the surrender could be effected; on January 6, 1702, the drafts, unanimously approved by the proprietors, were laid before the King's council, with the recommendation that someone "wholly unconcern'd in the factions which have divided the inhabitants" be appointed as governor by the King; and on January 29 a draft of the surrender, drawn up by the attorney general, was sent by the council to the board for the signatures of the proprietors of both Jerseys. The death of King William in March delayed the execution of the surrender until April 15. It was accepted by Queen Anne two days later.[27]

The surrender itself contained a recital of the chain of title and the names of the present proprietors, 52 in number, and stated that since the proprietors had been advised by Her Majesty that they had no right to exercise the powers of government, they willingly surrendered their pretenses in order that Her Majesty might appoint a governor who with the consent of the assembly and the approbation of the crown would make the laws and administer them. The resident proprietors who signed the surrender were Forster, Johnstone, Hawden, Barclay, Lyell, Warne, Gordon, and Morris as proxy for Burnet. The concessions to the proprietors, as recommended, appeared in the governor's instructions. There is ample proof that the resident proprietors were pleased with the settlement. At a meeting of the local Board on December 1, 1702, Morris, just returned, gave a full account of the terms and conditions agreed upon, "which," the minutes record, "was to the general satisfaction of the Board." For his efforts Morris was tendered a new patent for his extensive landholdings at the nominal quitrent of one pint of spring water per annum. Furthermore, his arrears were cancelled, and he was granted a lease for 21 years on an enormous acreage extending from Shrewsbury River to Manasquan River, with the privilege of cutting timber and manufacturing pitch, rosin, tar, and turpentine.[28]

Governor Cornbury's instructions were dated November 16, 1702, but since he was already in America as governor of New York, they did not reach him until the following July. Among the

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[27] *ibid.*, 427-429, 432, 448-450, 452n.

[28] *ibid.*, 452-461; *M.P.E.J.*, 254-255.

103 instructions were several of importance to the proprietors. Cornbury was directed to have the general assembly adopt a measure confirming the right of soil to the proprietors, together with all quitrents reserved or due to them from the inhabitants, and all other privileges contained in the original patents except the right of government. All titles issued under their authority should be confirmed. The governor could not consent to a tax upon unimproved lands, a provision that was of great value to the proprietors. Moreover, only the proprietors were permitted to purchase lands from the Indians. Instructions were given to permit their surveyors only to survey the lands held by them and to aid their agents in collecting the quitrents due them. All lands purchased of the proprietors must be cultivated and otherwise improved.

The instructions contained also a list of members of the governor's council. It was not identical with that transmitted in September 1701 by Morris in behalf of the proprietors but was another agreed upon by the proprietors in November. Johnstone, Dennis, Pintard, and Earle were supplanted by Bowne and Walker, while the number from each division was reduced from eight to six. Bowne, Walker, Pinhorne, Leonard, and Sandford were backed by Dockwra and his faction of Barker, Plumsted, and the Sonmans' heir, Peter. The board was momentarily upset when the secretary of state for the northern department, the Earl of Nottingham, submitted separate nominations, since the appointment of councillors had been an unchallenged prerogative of the board since its creation. Indeed, Nottingham sent in a first list on August 4 and a revised list on the 12th. He objected to Morris as the head of the Scottish-Quaker faction and to Leonard, Willocks, Barclay, Hawden, Gordon, Lyell, Forster, and Johnstone as members of it. He rejected, for unnamed reasons, Dennis, Pinhorne, Hale, and Bishop. Nottingham was persistent, sending his list to Lord Clarendon for approval. The latter, strangely enough, consulted the ever-available Basse, who negatived all the Quakers on the list and Leonard, whom he labeled "a man of no estate," and "a zealous stickler for the Quakers." Basse proposed Berry, Royce, Slater, and Townley, members of the antiproprietary faction. It remained for the board, on September 12, to end the matter by informing Nottingham that the men they had chosen were men of good estates and had been accepted unanimously by the proprietors of both divisions. To make changes would lead to a renewal of animosities. The name of Robert Quary was added to the council to enable him to better execute his office as admiralty judge, but he was not to be a standing councillor. The first royal council, therefore, included Morris, Bowne, Pinhorne, Leonard, Walker, and Sandford from East Jersey. Leonard died before he was sworn in, and Walker died shortly after. Morris' appointment as acting governor was recommended on June 2 by the board of trade as a means of preserving peace until a new governor arrived, enabled him to wield a great influence and to build up a strong following. He presided over the council as its president.[29]

The instructions followed closely the proprietors' request that a general assembly, meeting alternately at Perth Amboy and Burlington, consist of an equal number of representatives from each division. The number was reduced from 36 to 24. Two members each would represent Perth Amboy and Burlington, and ten others would be elected from each division. Voters must own 100 acres, and representatives, 1,000 acres. Cornbury was directed to maintain a full system of courts, but could not assent to the establishment of any new court without the permission of the crown. Appeals to the King in council were not allowable unless at least £200 were involved and unless good security was given by the appellant.

As the proprietors requested, liberty of conscience was granted to all but Roman Catholics, and it was recommended that an act be adopted permitting Quakers to take an affirmation instead of the oath. Quakers were declared eligible for office. Upon the moot question of trade and free ports, the governor was directed to propose to the assembly that the customs and other impositions must equal those of New York. The proprietors had reason to be satisfied, failing to obtain full advantage in only one proposal, that of naming the first royal governor. New Jersey was to begin a new period with a constitution, fully set forth in Cornbury's instructions, that was reasonably solicitous of the rights and privileges of the inhabitants.[30]

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[29] *N.J.A.*, II, 417, 429, 431, 474, 486-488, 501-504, 507, 517-518; IV, 311-312; XIII, 293.

[30] *ibid.*, II, 510-511, 514, 520-521, 522-523.

A number of East Jerseymen rose to prominence in the royal period. Lewis Morris was councilman, several times president of the council, acting governor, and governor. Pinhorne served on the council and was its president for a brief period. Other councillors were Andrew Bowne, Samuel Leonard, Samuel Walker, William Sandford, Richard Townley, Peter Sonmans, Thomas Gordon, David Lyell, and John Johnstone. Thomas Gordon served both as attorney general and chief justice. Other supreme court justices were Pinhorne, Bowne, Sandford, and Sonmans. The indefatigable Basse obtained a small plum, serving for a long period as secretary of the colony and for shorter periods as attorney general and as treasurer. Gordon was speaker of the third and fourth royal assemblies, and John Johnstone, of the eighth and ninth assemblies. With the possible exception of Lewis Morris, the old proprietary contributed no distinguished men to the service of the royal government. Morris' star rose late in the proprietary period, but his progress toward large influence was more rapid than that of any other person during the whole period from 1665 to 1702.

Hamilton died suddenly on April 26, 1703. Three days later, the council with Morris as president notified the governor, Lord Cornbury. Their resolution praised Hamilton as "a person of good charrecter not unknown to your Excellencie."[31]

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[31] *ibid.*, XIII, 293.

CHAPTER XVI

The Religious Aspect

Though proprietary East New Jersey produced little if any aesthetic achievement—writing, printing, art, and music were wholly lacking—she exhibited, like many early colonial societies, a highly seasoned and varied religious development. Unlike that of Massachusetts, Pennsylvania, and West Jersey, her religious grouping was not homogeneous. There was never any attempt to violate the religious freedoms guaranteed by the Concessions and Agreements of 1665. For this reason, Dutch Calvinists, Puritans, Scotch Presbyterians, Quakers, and Anglicans lived amicably side by side. Since East Jersey was peripheral geographically, without interference from outside, this doctrine of "live and let live" was strengthened. New England stood ready when it suited her convenience to furnish Puritan divines to relatively nonattractive charges; and the Philadelphia Yearly Meeting of Quakers, after its founding, dutifully sent traveling Friends to isolated local meetings. But the Classis of Amsterdam was no more aware of Bergen's Dutch Calvinists than the Baptist towns of Rhode Island were of East Jersey's minuscule Baptist meetings. Until the founding of the Society for the Propagation of the Gospel near the end of the period, despite the concern of some, the national church sent no succor. Yet in their homely way the inhabitants strove energetically to maintain and perpetuate the creeds of their fathers in communities marked by a static economy and a chaotic body politic. That they succeeded as well as they did is to their large credit.

The character of Puritanism in East Jersey was influenced by two occurrences in New England, namely the adoption of the Half-Way Covenant and the absorption of New Haven by Connecticut. It was later affected by a drift away from Independency and toward Presbyterianism.

The Congregationalists maintained that only adult persons of Christian experience should be admitted to the covenant union which constituted the local church. They also held that children shared in their parents' covenanting and were therefore members of their parents' church. This was a right that accrued simply from birth in a Puritan home. The immigrants of the first generation were men and women of tried religious experience able to give testimony of their faith, but those of the second generation included many righteous Christian persons who could evidence no conscious work of divine grace. The problem that faced the church was that if birthright members were automatically admitted to the sacrament of the Lord's Supper, the cardinal postulate of regenerate church membership would tend to break down. Yet to deny them some church standing would arouse opposition. These persons certainly were not guilty of transgressions of the moral law or of holding heretical opinions, both of which were causes for excommunication. Furthermore, if membership were withheld from this continuously larger group, the church might well lose its direction of the spiritual well-being of the community.

The New England church eventually adopted a somewhat illogical compromise. The nonregenerate members of the congregations were held to be within the covenant "half-way." By "owning the covenant" into which they were born, i.e., on condition that they accepted the main truths of the gospels and that they would subscribe to the discipline of the church, they were entitled to a limited membership that they could transmit to their children. But such persons would be denied the sacrament of the Lord's Supper and would not be permitted to vote for church officers.

The demand for this type of membership did not come from the nonregenerate members themselves but from certain of the ministry. No political benefit was involved, for the "half-way" member obtained no new privilege. In 1668, for example, when the Massachusetts General Court declared that every church had the liberty of electing its officers, it designated as voting members those "in full communion only." The compelling motive for the adoption of the Half-Way Covenant was the need of the ministers and many of the churches to maintain a hold over those whose adherence might otherwise slip.

The covenant was adopted only after several years of official debate. In May 1656 the Connecticut General Court appealed to the dominant Massachusetts General Court to call a ministerial convention of New England delegates to discuss this long-standing matter. When the call was issued in June 1657, Connecticut and Massachusetts appointed delegates, but Plymouth took no action. The New Haven colony, led by the orthodox Reverend John Davenport, not only refused to participate but sent a letter opposing the proposed change. The convention, however, heartily supported the "half-way" view and declared that the nonregenerate member by birth was entitled to transmit the same status to his children and to obtain baptism for them provided he accepted the obligations of his membership as far as he was able. But only a full Christian profession would qualify the birthright member or any other for taking part in the Lord's Supper or for a vote in ecclesiastical affairs.

Because the debate continued, the Massachusetts General Court called a synod to decide the question of who were the subjects of baptism. At the meeting in March 1662, with more than seventy ministers present, the issue was hotly debated. The minority, though small, was forceful and included such illustrious stalwarts as President Charles Chauncey of Harvard and the Reverend Increase Mather of Boston. Their opinion was strongly buttressed by the widely circulated views of John Davenport. At its third session, in September, however, the synod reached substantially the same conclusions as the ministerial convention of 1657.

The publication of the results of the synod deliberations increased rather than diminished the controversy. A warfare of pamphleteering commenced, the chief effect of which was the conversion of Increase Mather to the Half-Way Covenant position. In Connecticut the division was intensified by the absorption of the New Haven colony into Connecticut in 1662. Sentiment in Connecticut itself was divided but with a clear majority in favor of the Half-Way Covenant. Nevertheless there were sharp repercussions to the synod's conclusions. The Hartford Church was split, leading to the establishment of a second church there, and there were similar divisions in other towns. The effect upon New Haven was even sharper. John Davenport left to accept a call to the First Church of Boston with the unhappy result that an opposing group there withdrew to form the Third or Old South Church. Not the least of these upheavals was the decision of Abraham Pierson of Branford, Connecticut, to lead his orthodox congregation to the East Jersey wilderness.

By the close of the seventeenth century the Independent-Congregational pattern was not seriously challenged in Massachusetts Bay, but in Connecticut, Congregationalism showed Presbyterian tendencies which were becoming articulate. Long Island and New Jersey showed similar trends. Fortunately the differences between the Congregationalists and the Presbyterians caused no serious rupture. In England the division stemmed from two irreconcilable concepts. To the Congregationalists the church existed only in its individual congregations. To the Presbyterians the Church Universal transcended its local manifestations, being an entity greater than the sum of its parts. Differences, too, had developed upon corollary issues. For the Congregationalist, church membership was all important. The whole congregation, not the clergy and deacons, was called upon to judge whether the candidate was fit for membership, i.e., whether he had received renewing graces directly from God. The Presbyterians argued that the elect were known to God alone. Admission to the church meant only that the minister and the deacons, who represented the people, believed that the novitiate was eligible for membership in the Church Universal. The Congregationalists held also that each congregation would ordain its own preachers from its own body and select the deacons and other officers. When a minister left a congregation, he ceased to be a minister. But the Presbyterians ordained men to the ministry of the Church Universal who were then presumed to be in sacred office for life. They were ordained not by their congregations but by other ministers, who vested them with an authority they derived from the Church Universal. They expected that all other churches would recognize them as ministers of Christ.

There were also differing views regarding the laity. To the Congregationalist the only real church was the laity. The minister could counsel and explore, but only the brotherhood could determine any issue relating to "the keys" to the Kingdom (admission to the Church) or to discipline. To the Presbyterian the minister exercised an office in behalf of the whole Church of Christ. Moreover, the people exercised their prerogatives through elders, men regarded as peculiarly fitted to exercise weighty responsibilities for the Church Universal. Indeed, because a number of Presbyterians believed that an uninformed laity would fall under the influence of the minister, they felt that it was essential to have a bench of elders who would be in a position to stand over against the clergy as the authentic voice of the people. Among the Presbyterians, then, the elders with the minister as moderator exercised the power of "the keys" and church discipline in the name of the whole body of Christ, the Church Universal. They did not act merely in behalf of the local congregation.

These divergent doctrines of the nature of the church posed practical problems. Neither group thought that nonregenerate people should be admitted to church membership. But their views as to the conditions of membership held them apart. Both believed that only members should participate in the sacraments, particularly the Lord's Supper and baptism. But among the Presbyterians the Lord's Supper was observed regularly and was participated in by most of those present. In the Congregational church, where the number of full members was small, the Lord's Supper was celebrated at rare intervals and sometimes not in the presence of those attending the service. Again with baptism, only church members might claim the privilege for their children. Finally, only full members might participate in the calling of a minister.

The question of the role of the church council also differentiated the two religious bodies. For the Congregationalists the council was only quantitatively superior to one local church. Its authority was advisory only, and its sphere of activity was only regarding the matter upon which it had been called. Any church could request advice from others, but once given, the advising group passed out of existence. To the Presbyterians the great entity was the Church of Christ. No congregation stood alone, for it was not complete in its own right. As a part of the Church Universal it was subject to discipline in that interest. By divine appointment local churches were gathered into presbyteries and these again into higher church courts. Thus the whole Presbyterian body was to be guided and disciplined in behalf of the Church Universal. Since the Church Universal existed in its own right, and since the local congregations were in themselves not complete, both the authority and function of these higher courts made them permanent and self-determining within their respective scopes.

In England the two groups were slowly brought together. The 1690-1691 plan of union known as "Heads of Agreement" was undertaken by the ministers, of whom Increase Mather of Massachusetts was one. The consolidated denomination, known as the United Brethren, was basically Congregational in outlook, Church councils rather than church courts were recognized, and their decisions were advisory. However, no one church could ordain a minister, but a council of ministers was required. Each congregation would determine whether it would have ruling elders. Likewise each congregation was allowed to formulate its own rules for membership and for admission to the sacraments.

In America there had been Presbyterian tendencies from the start. The Cambridge Platform of 1648 exhibited important instances of accommodation. For example, the role of the ruling elder was recognized, and both views of the ordination of the minister were accepted. In Long Island and East Jersey the preference at first was for the Congregational way because many of the church's outposts had been founded as a protest against "liberal influences." The two different usages of the sacraments and the two views regarding the authority of the minister caused the most trouble. But with the possible exception of certain withdrawing congregations in New Haven colony no one wished to carry the schism to the breaking point.

Francis Doughty, however, was actually driven from Massachusetts in 1642 for his Presbyterian views and attempted to establish a Presbyterian colony at Mespat near Newton, Long Island. Failing, he resided in New Amsterdam, then in Flushing. In 1657 he went to Maryland to escape Governor Peter Stuyvesant's conformist decrees. Richard Denton, another minister with Presbyterian proclivities, preached at Wethersfield, then Stamford, Connecticut, and finally moved to Hempstead bringing with him part of his congregation. But with his return to England in 1658 his church reverted to the Congregational way. Denton's sons, Nathaniel and Daniel, dissatisfied, moved to nearby Jamaica together with others. In 1662 they obtained the services of Zechariah Walker, an unordained minister from Massachusetts who had attended Harvard

College for a time. But it was not until 1672 that, "according to the rules of the Gospel of this town," the Reverend John Prudden organized a church in accordance with Presbyterian practices. It was several decades, however, before Presbyterianism became widely accepted in Long Island.[1]

Many of East Jersey's earliest settlers came from New England, some directly and others by way of Long Island. Indeed the heart of the New England tradition lay within certain of the old East Jersey towns, especially Newark, Elizabethtown, and Woodbridge, and to a degree also Piscataway, Middletown and Shrewsbury. Newark, whose extant records are more complete, was a singularly New England town.

Newark's leaders were orthodox New England men. Robert Treat, who was born in Pitminster, Somerset County, England, as a youth in 1640 had taken part in the settlement of Milford, Connecticut. In 1653 he had risen to be a deputy of the General Court of New Haven and was soon chief military officer of the colony. But he opposed the absorption of New Haven into Connecticut, and although in 1665 he represented Milford in the Connecticut assembly, he was not reconciled to the forced union. He objected also to the trend in Connecticut that would confer the role of freemen to others than church members. It is not surprising, therefore, that he led a group from Milford to Newark in 1666. A man of forty-four years of age, he was then at the height of his physical and mental vigor. Until he returned to Connecticut to play a great role there, he was annually elected one of the two magistrates of Newark. Treat also held the important post of secretary, a combination of recorder and town clerk, which meant that most of the town's land business passed through his hands. Returning to Connecticut in 1673 as assistant of the General Court, he later commanded its troops in King Philip's War. He was to serve long terms as governor and deputy governor.

Treat's co-worker in the founding of Newark was the Reverend Abraham Pierson of Branford, Connecticut. Born in Bradford, Yorkshire, England, Pierson had been educated at Cambridge University. Arriving at Boston in 1640 he soon became minister at Lynn. There, after a period, a large part of the congregation finding themselves "straitened" because of nonorthodox tendencies removed to Southampton, Long Island, with Pierson as their minister. Pierson, a sterner, more unshakable Puritan than Treat, insisted that only church members should be freemen. Indeed, he had opposed Southampton's union with Connecticut on the ground that nonconformists might become freemen. In 1647 he organized a church in the new settlement of Branford, Connecticut, where he served as pastor for twenty years. In 1667 he led his whole congregation to Newark in protest against the Half-Way Covenant and the union with Connecticut. Pierson ruled in Newark with a stern hand.

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[1] Williston Walker, *A History of the Congregational Churches in the United States* (New York, 1894), 164-179; Williston Walker, *The Creeds and Platforms of Congregationalists* (New York, 1893), 243-287.

In 1669 his son Abraham, who had recently graduated from Harvard and who was pursuing theological studies at Milford, was formally invited by the town of Newark to become his father's assistant at an annual salary of £30. Probably an invitation from the town of Woodbridge a month before stirred Newark to action. In 1671 his salary was raised to £40, and he was exempt from taxes and given land for a house. The next year he was made associate minister and ordained. On his father's death in 1678 Abraham was elected minister unanimously at the town meeting at a salary of £80, exempt from taxation, and free firewood. The younger Pierson was thought to have strong Presbyterian leanings, which may have alienated some of the congregation, for in 1687 the practice of a tax on all freemen for the minister's salary was "desisted from."[2] The volunteer system did not work well, and Pierson became dissatisfied. He left Newark in 1692 for Connecticut where he settled permanently as the minister at Killingworth. In 1699 he was one of ten ministers chosen by the ministry and the people to undertake the founding of a college, later Yale University, and in 1701 he became its first rector.[3]

John Prudden, Pierson's successor in Newark, was born at Milford, the son of a clergyman, Peter Prudden, and he graduated from Harvard in the class of 1668. He first taught school in Roxbury and then became minister at Jamaica, Long Island. He remained there until 1691 although he was continually in poor circumstances due to the failure of his congregation to support his salary. After preaching several times in Newark, he was invited to fill Pierson's post. He accepted because of his long friendship with Pierson and because of the large number of Milford people who had settled in Newark. He was allowed the rather meager salary of £50 and free firewood "according to [the] several Contributions voluntarily subscribed." The old system of a compulsory tax for the support of the minister had been abandoned in Newark. Prudden was also given a house lot with a house and appurtenances on easy terms. The congregation promised that they would "freely and readily submit themselves to him and to his Dispensations and Administrations . . . in the Discharge of his ministerial Office and Works." Perhaps the hard-bitten Prudden wished this explicit guarantee. As it turned out, his ministry was not an easy one in an orthodox community, and he resigned in 1699. Efforts were made to keep him but without an increase in salary. Perhaps in contrition, it was voted that every person from sixteen to sixty would deliver him one load of wood against the winter "whether he served the town in the ministry or no." Though he refused to remain in his post, he resided in Newark where he was so highly esteemed that he was consulted about the appointment of several of his successors. After 1706 he taught a school.[4]

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[2] Newark Recs., 101.

[3] John L. Sibley, *Biographical Sketches of Graduates of Harvard University* (Cambridge, 1881), II, 253-258.

Jabez Wakeman of Fairfield, Prudden's successor, was the son of a noted divine, the Reverend Samuel Wakeman. He attended Harvard College but did not graduate when the course was lengthened from three to four years. As early as January 1699, while he was visiting cousins in Newark, a committee interviewed him for the post of assistant to Prudden. In November, after Prudden's resignation, he was invited to preach on trial. In September 1700 he was unanimously chosen minister by the congregation at a salary of £60, later raised to £80, by an assessment upon those willing to contribute. The congregation also raised funds to buy him a house, while the town voted him 70 acres of land. Such was his popularity that a gallery was built in the meetinghouse. Tragically, an epidemic of dysentery carried off Wakeman and his infant child in 1704 when the young minister was but twenty-six. Cotton Mather in a eulogy praised him highly: "He set himself to Awaken others unto the Goodness he Practised himself."[5]

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[4] *ibid.*, 258-263.

Elizabethtown, too, was a Puritan community, and for forty years the Congregational meetinghouse, built by 1671, was the only religious edifice. The meetinghouse also served as the town house where the town meetings were held. Provision was made by the Elizabethtown associates of a "third Lot Right" for the minister. The pastor of East Hampton, Long Island, was the first invited to accept the pulpit, but his congregation persuaded him not to leave. For a time deacons' meetings of worship had to suffice. In 1668 Jeremiah Peck accepted the town's invitation.

Peck, who was born in London, emigrated to Boston with his parents in 1637 when he was fourteen years old. He attended Harvard College, then taught school at Guilford and New Haven. Peck then became the pastor at Saybrook but returned to Guilford in 1666 when he and his father-in-law, Robert Kitchell, joined the Guilford and Branford people who settled in Newark with the senior Pierson. Before going to Elizabethtown to preach and teach it is believed that he ministered at Newark just preceding Pierson's arrival in October 1667. It is revealing to note that when Peck left Elizabethtown in 1678 to return to Connecticut, he made himself obnoxious to the people of Greenwich by his unflinching opposition to the Half-Way Covenant. In 1690 he moved on to Waterbury.[6]

Peck's post at Elizabethtown was not filled until 1680 when the Reverend Seth Fletcher was called. Although he lived for only two more years, his ministry was an active one. As a youth he had studied for the ministry under the Reverend Timothy Dalton at Hampton, New Hampshire, but was dismissed from his first charge at Wells, Maine, because of his laxness with respect to the Sabbath. He then supplied the pulpit at Saca, Maine, until the breaking out of the Indian war in 1675 when he moved to Southampton to succeed John Harriman, who had gone to New Haven. In the autumn of 1680 he accepted the Elizabethtown post, where he remained until his untimely death. Fletcher was a strong protagonist, writing Increase Mather in 1681, "I have been much molested by the Quakers here since I came. New ones [visiting ministers] comeing in one after another." In a public debate with John Usquehart, a Scotch Quaker schoolmaster, Fletcher asserted that "a Quaker living and dyeing as a Quaker (without repentance) must find out a new gospell which might aford them hope of salvation, for what God hath revealed in his holy word there was no salvation for them in their impenitent condition." Instead of answering his arguments, in which he quoted from their own authorities, "they set themselves," he wrote, "to Humming, singing, reeling their heads and bodies (Antique like) whereby both to disturb mee and to take off the people from attending to what I had to say for the maintaining of the Assertion." Fletcher informed Mather that the Quakers had raised a great party in Rhode Island and Delaware Bay against him and threatened to set William Penn against him in England! Incidentally he mentioned that he had recently visited Abraham Pierson, Jr., at Newark and John Allin, the minister at Woodbridge.[7]

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[5] *ibid.*, IV, 391-392.

[6] *ibid.*, I, 569-570; Hatfield, *History of Elizabeth*, 198-205.

Following Fletcher's death, deacons' meetings and visiting preachers were resorted to since no successor could be found. Since Allin had now ceased to supply the pulpit at Woodbridge, there was now no preacher in East Jersey except Abraham Pierson, Jr. It was not until 1687 that Elizabethtown succeeded in obtaining a permanent minister. John Harriman had been baptized and educated by the Reverend John Davenport of New Haven. When he was thirteen, he was taught by Jeremiah Peck, then principal of the New Haven grammar school, and at the age of fifteen he was enrolled at Harvard College. He graduated in 1667, one year before Abraham Pierson, Jr., and John Prudden. After preaching in Connecticut he became, in 1675, pastor of Southampton, Long Island. He later moved to East Haven, Connecticut. In 1684 he was appointed as surveyor by the Connecticut General Court and joined Robert Vauquellin of East Jersey in running the boundary line between New York and Connecticut. Either through Vauquellin or through friends from Southampton then living in Elizabethtown, Harriman visited the latter town. He was chosen minister and installed in September 1687 and served until his death at fifty-eight years of age in August 1705.

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[7] *ibid.*, 205-209.

Since his wife, Hannah Bryan Harriman, was the daughter of the richest man in Milford, Harriman was never as hard-pressed financially as his colleagues in the ministry. In his own right he was a prudent and able man of affairs. He kept account books showing what each member of his congregation contributed for the support of the church. The list of 1694, for example, shows an income of £83 from 124 subscribers. In 1697 eight new names were added and in 1701, thirteen. Since £60 was a poor annual income for a man with a wife and seven sons, Harriman in 1692 applied for and received a grant of 100 acres from the resident proprietors within the bounds of Elizabethtown at a quitrent of 1/2d. per acre. As we have seen, this land was soon put under cultivation. Harriman was indeed a busy man with a flour mill, a cider press, a wholesale glass business, and land surveying. In conjunction with his church he established a boarding school, tutoring some twenty pupils between 1695 and 1702. His charge for teaching the "art of navigation" (surveying) was £3, and full boarders paid 5s. a week. In addition he dealt in real estate. Serving in the legislature, he was a member of the house from 1693 to 1695 and in 1699 and was several times chosen speaker. Harriman was succeeded as minister in 1705 by the Reverend Samuel Melyn, a descendant of one of the founders of Elizabethtown, who had graduated from Harvard College in 1696.[8]

Throughout the proprietary period, then, Elizabethtown and Newark remained towns with strong Puritan congregations. As Lewis Morris wrote of the East Jersey towns, they "were peopled from New England; are generally Independents; they have a meeting-house in each town for their public worship. They have some few Churchmen, Presbiterians, Anabaptists and Quakers settled among them."[9] Woodbridge and Piscataway, though smaller, were cast in a similar mold. As early as 1669 a committee from Woodbridge had unsuccessfully approached Abraham Pierson, Jr., on the subject of becoming their minister. They invited Jeremiah Peck of Elizabethtown, then Samuel Treat, oldest son of Robert Treat. But no one was attracted by the proposal to preach for six months for a stipend of £20. In 1674 another effort was made;

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[8] *ibid.*, 281-293; *M.P.E.J.*, 195-196, 201.

[9] *N.J.H.S. Proc.*, new ser., IV (1909) 118.

in 1675 Peck was again approached; and in 1677 Ezekiel Fogg, who was offered £50 for full time, failed to put in an appearance. In desperation the town committee wrote "Dr. Burns and Mr. Richard Baxter" in England for assistance. Finally John Allin, who was in London, accepted their invitation. He was granted £50 per annum, and the money was to be raised by voluntary subscription. A meetinghouse, actually begun in 1675, was floored in preparation for his coming. On January 1, 1681, Allin was formally declared minister and shortly after was admitted as a freeholder. Both Seth Fletcher and Abraham Pierson, Jr., whom he visited, thought well of him. Pierson wrote Increase Mather that this son of the former minister of Dedham, Massachusetts, was indeed "a faithfull man, and one that feareth God above many; able to teach others."[10]

Allin's parents had settled in Dedham in 1637. John, who was born in England in 1623, was a member of the class of 1643 of Harvard College. Thus he was fifty-eight when he accepted the pulpit at Woodbridge. Following his graduation from Harvard he had returned to England, becoming in 1653 the vicar of Rye in Sussex. Ejected from his post under the Bartholomew act of nonconformity in 1662, he went to London to study medicine. When he failed to obtain a license to practice medicine in the provinces, he remained thereafter in London. During the Great Plague he wrote a number of revealing letters regarding it to his friend Philip Fryth in Rye. He exhibited a great degree of zeal in his medical studies, and he was ever in search of efficacious drugs. Nevertheless, when the call came from Woodbridge, he accepted it gratefully. Although he served for five years, little is heard of him. After the appointment of his successor he continued to reside in Woodbridge.[11]

Archibald Riddell, the only Scottish minister to serve in New Jersey and one of the few non-Harvard graduates, was chosen Allin's successor in 1686. A survivor of the pest-ridden *Henry and Francis*, he was a cousin of the wife of the leader of the expedition, George Scot. Riddell himself was under surveillance by the Scottish government as early as 1674 for attending and holding conventicles, and in 1679, after the battle of Bothwell Bridge, the privy council offered a reward for his arrest. Seized and taken to

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[10] W. A. Whitehead, *Perth Amboy*, 380-383.

[11] Sibley, *Harvard Graduates*, I, 93-101.

Edinburgh, he comported himself at the hearings with dignity and intelligence. In refusing to take an oath never again to preach outdoors, he said simply, "I know not but [that] He who had called me to preach . . . may . . . call me to preach upon the tops of mountains . . . and I dare not come under any engagements to disobey His calls." He admitted that he had violated the conventicle acts but added that people who had come ten miles to hear him should not be denied that privilege because they could not possibly get into the crowded church building. He was committed to prison and was released, upon the application of Scot, on condition that he migrate to America. He was accompanied by his wife and four children. Promised land by the proprietors wherever he settled, he took up residence in Woodbridge, where the pulpit was vacant. Unfortunately he returned to Scotland in June 1689, when the religious restrictions were lifted there. His homecoming was delayed because his ship was taken by the French, and he was imprisoned for two years. Long after, in 1700, when he was "minister of the Gospel at Kirkaldie, in the County of Fife, Scotland," he sold his East Jersey land to Thomas Gordon.[12]

It was not until October 1695 that the Woodbridge pulpit was again filled. The incumbent, Samuel Shepherd, was the grandson of the famous Thomas Shepherd, minister at Cambridge, Massachusetts. The younger Shepherd was a graduate of the Harvard class of 1685 and was well circumstanced by reason of several family bequests. He was appointed minister at Woodbridge at a stipend of £50 per annum. Later, when it was rumored that he would remain in New England where he was visiting, his salary was raised to £60, and he was promised a house and 30 acres of land. The practice of levying a rate on all freemen for the payment of the minister's salary was challenged soon after Shepherd's coming. When William Webster, a Quaker, refused to pay his allotment, trouble was avoided because John Bishop, a leading citizen, paid it for him. But Webster's action only led others to take this stand with the result that Woodbridge, too, in 1700 was forced to resort to voluntary subscriptions to support the minister's salary. A committee of the town was appointed to settle all differences with their "dissenting neighbors, the Quakers," who had led the opposition to a "publique ministry."

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[12] Whitehead, *Perth Amboy*, 367-372, 384.

Meanwhile, in 1698, Shepherd had married Alice Parker of Boston, who took a strong dislike to the hamlet of Woodbridge. In June 1701 when a town committee suggested to Shepherd that he be ordained, he refused on the ground "that his wife is so advers to his Setling here." A month later, after another vain appeal, the committee reported that Shepherd "adviseth us to have no farther dependence on him." Although an effort was made to find a successor, as late as 1702 Shepherd was being asked to continue until another minister could be found. Illustrative of the degree of religious toleration that had been attained in Woodbridge was the notation of George Keith, then an Anglican missionary, under date of December 29, 1703. "Preached," he wrote, "at the Independents Meeting House . . . at the desire of Mr. Shepherd and some others there on I Tim. 3. 16. After sermon Mr. Shepherd kindly entertained us at his house."[13]

Although the evidence so far as East Jersey is concerned is scant, the Puritan churches, as in Connecticut, were moving toward "Presbyterianized Congregationalism." The inspiration towards centralized church government came, however, from the great missionary, Francis Makemie, who had settled in Accomac County, Virginia in 1698. In London in 1704 he secured aid from the United Brethren for the support of two ministers in the colonies. All three returned the following year. Confident of the good will of the United Brethren in England and of Increase Mather in America, he brought together, in Philadelphia in March 1706, seven ministers who formed the first presbytery in America. Makemie himself was a Scotch-Irishman; Samuel Davis of Lewes was from Ireland; Jedediah Andrews, the Philadelphia minister, John Wilson of Newcastle, and Nathaniel Taylor of Patuxent were from New England. George McNish, a Scot, and John Hampton, a Scotch-Irishman, were the young ministers whom Makemie had brought to America.

Lacking extant records it is not known how much authority the presbytery assumed. No constitution was adopted. Makemie refers to the organization as a "meeting of ministers." But at the second meeting in 1707 the presbytery assumed the right to require a minister's attendance and elders were present. All factions seemed satisfied—the Scotch and Scotch-Irish because Presbyterian standards were adhered to and the Congregationally minded because the presbytery did not seem to go beyond the Heads of Agreement of 1690-1691. The prestige of the presbytery was enhanced throughout the middle colonies by Makemie's dramatic acquittal in New York on the charge of preaching without a license and his death shortly after. Since the Puritan churches of the middle colonies could not closely affiliate with those of Massachusetts and Connecticut, which had been established under their governments, they turned toward the Philadelphia presbytery. Organization was essential with the new rivalry of the Anglican church in New York, New Jersey, and Pennsylvania. Happily the patterns of the new presbytery were not fixed, no more than were those of the local congregations. By the close of the proprietary period, East Jersey, for one, was receptive to strong local Presbyterian influences, and eventually this church grew and flourished.

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[13] *ibid.*, 385-387; Sibley, *Harvard Graduates*, I, 542-544.

Relatively little is known of the earliest religious activity in Piscataway, settled in 1668 by a group mainly from Piscataqua, Maine. Although a few families like the Gilmans were there from the beginning, those who were later prominent came throughout the whole decade from 1677 to 1687. Though there were undoubtedly many Puritans among the settlers, the initiative in the religious organization of the community fell to six families of the Baptist persuasion. Three men, John Drake, Hugh Dunn, "an exhorter," and Edmund Dunham, preached as unordained ministers. In 1689 Thomas Killingworth, one of the great Baptist pioneers of New Jersey, visited Piscataway on a missionary journey and ordained Drake. Killingworth was a minister of Norwich, England, who preached first in Rhode Island, then led a small flock to Cohansey in West Jersey. Like Elias Keach of Philadelphia he was a great missionary, visiting all the Baptist groups in New Jersey. He was at Middletown, for example, before coming to Piscataway. Later he aided in the formation of the Keithian Baptists in Philadelphia and occasionally preached at the First Baptist Church there. He returned finally to New Jersey and became a magistrate of Salem.

About the year 1700 Edmund Dunham admonished one Hezekiah Bonham for working on Sunday, whereupon Bonham challenged Dunham to prove that Sunday was the Sabbath. The upshot of the matter was that after long study Dunham himself came to the conclusion that the true Sabbath fell upon the seventh day. In 1705 he and seventeen others laid the foundation of a Seventh Day Adventist church, the first in New Jersey. Dunham journeyed to Westerly, Connecticut, to be ordained by the Reverend William Gibbons. He ministered to the newly formed congregation until his death in 1734. Like Killingworth he was an Englishman.[14]

There is no record of a Puritan minister or congregation at Piscataway during the proprietary period. The town meetinghouse was completed about 1690, and in March 1691 Dunham, the Baptist preacher, was given charge of "mending the buriel place." It is interesting that when the first Baptist Association of the middle colonies was established at Philadelphia in 1707, two of the first five churches, Middletown and Piscataway, were East Jersey churches. The other three were Pennypack (Lower Dublin) and the Welsh Tract, both outside Philadelphia, and Cohansey in the old province of West Jersey.

While West Jersey was essentially a Quaker province, the Friends were a minority in East Jersey. They resided principally in Monmouth County though a few were found in Elizabethtown, Woodbridge, Piscataway, and, later, Perth Amboy. Shrewsbury Monthly Meeting, the oldest in New Jersey, dates from 1670. The first Shrewsbury Friends were from New England. Eliakim Wardwell and his wife, Lydia, for instance, had both suffered for their beliefs in Rhode Island. Many of the early Quakers came to East Jersey by way of Long Island, which they had reached from Rhode Island, "that sewer of heretics." Richard Hartshorne, however, the first settler in Middletown township, came from England in May 1666. His brother was Hugh Hartshorne, later one of the Twenty-Four Proprietors, who was an affluent London upholsterer.

Lady Deborah Moody, the guiding spirit among Long Island Friends, originally took up residence at Lynn, Massachusetts, but, along with Mrs. John Tilton, later of East Jersey, was forced to move because of her Anabaptist tendencies. By 1645 Lady Moody was in Long Island with a number of other dissentients from New England. These were the men and women who peopled Flushing, Gravesend, Jamaica, Hempstead, and Oyster Bay. The Dutch watched the intrusion of these "libertines" without enthusiasm. In 1657 a party of Quakers had the audacity to land at New Amsterdam itself, but they were dispersed by Director Stuyvesant egged on by the Dutch Reformed preachers, Megapolensis and Drisius. Most of them, including Sarah Gibbons, moved on to Rhode Island, but three of the eleven were active in spreading Quakerism in Gravesend, Jamaica, and Hempstead. Stuyvesant persecuted several of them before they, too, joined Friends in Rhode Island.

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[14] Monette, *First Settlers*, Pt. II, 187-192. Whitehead, *Perth Amboy*, 404; Edward Morgan, *Materials Towards a History of the Baptists* (Philadelphia, 1792), II, 129-133.

Lady Moody's home after her conversion was used for meetings of worship. The Tiltons and others destined for East Jersey also became Friends. Stuyvesant, prompted by the ministers at New Amsterdam, insisted upon the enforcement of the conventicle regulations. In addition, a fine of £50 was imposed upon anyone harboring a Quaker, even for a night. When Henry Townsend of Flushing was imprisoned, 31 neighbors signed a petition of protest, whereupon Stuyvesant deprived Flushing of the privilege of holding town meetings. "The raving Quakers," reported Megapolensis and Drisius in 1659, "have not settled down, but continue to disturb the people of this province. Although our government had issued orders against these fanatics, nevertheless they do not fail to pour forth their venom."

In 1661 John Bowne of Flushing—not to be confused with East Jersey's John Bowne—was arrested, fined, and threatened with banishment if he did not pay the fine levied upon him. After lying in prison for three months, Bowne was able to proceed to Holland and appeal his case to the directors of the Dutch West India Company. The Company ordered Stuyvesant to desist and stated forthwith, "It is our opinion that [though] some connivance is useful . . . the consciences of men ought to remain free and unshackled. Let every one remain free as long as he is modest, moderate, and his political conduct irreproachable." Thus a great moral victory was won just a year before the English conquered New Netherland.

Quakerism continued to spread in Long Island. What was soon called Shelter Island on the eastern end, was a Quaker refuge set up by Nathaniel Sylvester, another East Jersey entrepreneur, and many New England Friends entered Long Island by way of Shelter Island. In 1665, soon after the English conquest, the "Duke's Laws" were promulgated. A provision of importance to everyone was that "no person shall be molested, fined, or imprisoned for differing in judgment in matters of religion." And when New Jersey was transferred to Berkeley and Carteret, the proprietors' Concessions, as we have seen, gave full religious freedom in the knowledge that settlers would not be attracted without such a provision.[15]

George Fox came to America in 1672, landing at the head of Chesapeake Bay. He proceeded by land to Rhode Island. Before reaching Middletown, where Richard Hartshorne ferried him across to Long Island, he had traversed a vast empty wilderness, as he describes it, through New Jersey. On his return from Rhode Island in August Fox visited Friends in Middletown and Shrewsbury as he had those in Flushing and Gravesend. A general meeting, "large and precious," was held in Shrewsbury in August attended by Friends throughout East Jersey. Fox noted in his journal that a meetinghouse was being erected in Shrewsbury, where there were already meetings for worship and a monthly meeting for the consideration of "the outward business" of Friends. Middletown, too, had its meeting for worship and its monthly meeting. When Shrewsbury General Meeting was established in 1672, it was agreed that a joint men's meeting for Shrewsbury and Middletown should be held every six weeks, with every third meeting at Middletown, the smaller Quaker community.[16]

Many notable names grace the roster of Shrewsbury Friends during the proprietary period. Besides Eliakim Wardwell one finds John Hance, John Slocum, Samuel Dennis, Judah Allen, Peter Tilton, and Samuel Spicer. Judging from the recorded average attendance at weddings—important events—the Shrewsbury Friends numbered about forty while those of the Middletown meeting were somewhat fewer.[17]

As early as 1681 Burlington Friends were discussing the establishment of a Yearly Meeting that would unite Salem, Burlington, and other meetings of southern New Jersey. When Shrewsbury Monthly Meeting learned of this plan, it petitioned Burlington General Meeting to be admitted. It was told that it must first obtain the consent of the monthly meetings of Long Island and Rhode Island. At the Burlington General Meeting held in September 1682 Shrewsbury became a member of the Burlington Quarterly Meeting and, with the founding of the Burlington-Philadelphia Yearly Meeting in 1684-1685, the newly created Shrewsbury Quarter was admitted to membership. The relative strength of the various quarterly meetings in the middle colonies may be gauged from their annual assessments for the support of the Yearly Meeting. In 1696, for example, Philadelphia was assessed £10; Bucks, £4; Chester, £4; Burlington, £3; and Gloucester, £3. At the bottom of the list stood Shrewsbury Quarter with an assessment of £1 10s.[18]

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[15] Jones, *The Quakers in the American Colonies*, 215-228.

[16] *ibid.*, 230-231, 359-361.

[17] Stillwell, *Historical Miscellany*, I, 241-249.

Quakerism in East Jersey received an impetus when Robert Barclay, the great Quaker apologist, became its first governor in 1682 under the Twenty-Four Proprietors. Although a nonresident who never visited the province, Barclay chose first Rudyard, then Lawrie, both influential English Quakers, as his first deputy governors. Moreover, the Scottish migration to the province was personally sponsored by Barclay. It brought several stalwart Scottish Quakers in its wake, thus preparing the ground for a meeting for worship in the new proprietors' town of Perth Amboy. There, too, a monthly meeting was established in 1686 as a member of Shrewsbury Quarter. John Reid, the surveyor, was its clerk and George Keith, recently arrived from Scotland, its most widely known member. In 1686, also, a monthly meeting was established at Woodbridge, and it met in the home of Benjamin Griffith. Nathaniel Fitzrandolph, who left Barnstable, Massachusetts, because of the persecutions there, moved to Woodbridge in 1679 and became a prominent member of the Friends' meeting. John Reid and George Keith, too, were the leaders in establishing the Toponemus Monthly Meeting, although there was a meeting for worship in the vicinity as early as 1684. Toponemus is near the present Marlboro in the Freehold district, and both men owned lands in this "new country." By the close of the proprietary period there were also meetings for worship at Rahway and Manasquan. The Quakerism of East Jersey was only a pale reflection of that of West Jersey. The intrusion of Quakers from Long Island and later from Scotland was too slight to make any large impression upon the prevailing Puritanism.[19]

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[18] Pomfret, *West New Jersey*, 217, 221, 222. The Papers of T. Chalkley Matlick (Historical Society of Pennsylvania) contain authoritative material respecting the early East Jersey meetings.

Since the Concessions made provision for religious freedom, there was no religious barrier to the colonist either in Puritan East Jersey or Quaker West Jersey. Not until 1698, when the East Jersey legislature in the Law of Rights and Privileges disqualified Roman Catholics from holding office or sitting in assembly, was the spirit of the Concessions violated.[20] The Concessions gave the assembly power to appoint ministers and establish their maintenance, but the assembly merely gave liberty "to any person or persons to keep and maintain what preachers and ministers they please." Thus the Puritans, the Baptists, and the Quakers undertook to make their own provisions for ministers and their support. Since the proprietors were willing to grant each township or parish 200 acres for the use of their ministers, the Puritan towns followed the practice of granting the minister the use of lands as a glebe. The East Jersey legislature early passed laws to punish violations of the Sabbath and to protect the minister and his congregation from disturbance either by "ranters" or rowdies. But the laws of East Jersey granted no especial benefit to the Church of England as such.

By 1700 East Jersey, which comprised about 6,000 people, exhibited a wide diversity of religious beliefs. Bergen, "the Dutch country," was a mixture of Calvinists and Reformed people from the Low Countries, Lutherans of German and Scandinavian origin, and a few Huguenots who had migrated up the Hackensack and Passaic Valleys. Essex, which contained both Newark and Elizabethtown, was predominantly Independent (Congregational) or Presbyterian. Elizabethtown, with some Baptists, Quakers, and Episcopalians, revealed more diversity. Middlesex County included Woodbridge with its mixture of Congregationalists, Scottish Presbyterians, Anglicans, and Quakers, and the small town of Perth Amboy was made up of many new settlers from the British Isles and Scotland particularly and some Quakers from Monmouth County. Piscataway, also in Middlesex, was largely Baptist, although other denominations were represented. Monmouth County was the most varied of all with Baptists from Long Island in Middletown, New England and Long Island Quakers in both Middletown and Shrewsbury, and Scottish Presbyterians and Quakers in the nucleus of settlement about Freehold. There were also a few Episcopalians in Shrewsbury.

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[19] Monette, *First Settlers*, Pt. II, 279-280, reprints the early meetings of Perth Amboy Monthly Meeting.

[20] Leaming and Spicer, 372.

East New Jersey developed as an evangelistic, not a liturgical, community, which explains the slow progress of the Established Church. Despite the strength of Puritanism and the lack of enthusiasm for the national church there were some evidences of good will and collaboration among the several sects. Dr. Alexander Innes, an Episcopal minister who took up residence in Monmouth in 1689, was respected by men of all creeds. In the northeast the Dutch welcomed the Huguenots into the Dutch Reformed congregations. Since the East Jersey towns were not wealthy, the churchgoers usually shared the same meetinghouse. In Middletown and Shrewsbury, the Independents and Presbyterians used the same quarters. As indicated, the Puritans as time went on tended more and more toward Presbyterianism. The Quakers and the Baptists usually met in private homes, but in Shrewsbury the Baptists also obtained the use of the meetinghouse.

East Jersey enjoyed, if it did not treasure, the boons of religious freedom. Though Lewis Morris was quite critical of what he saw, Dr. Nelson Burr in *The Anglican Church in New Jersey* tells us that many of his observations should be taken with a grain of salt. Morris, who resided at Tinton Falls near Shrewsbury, in his memorial of 1700 "Concerning the State of Religion in the Jerseys," commended the Puritans and the Dutch Calvinists, who made provision for ministers and churches, but railed at the multiplicity of sects and nonbelievers that flourished at Piscataway, Middletown, Shrewsbury, and Freehold. He was appalled by the drinking and carousing and the neglect of worship on the Sabbath. He spoke of the ignorance of the young, which he attributed to a lack of schools. The Dutch ministers of New York were critical of the people of Bergen for their neglect of religion. Yet the followers of the evangelist William Bertholf were willing to pay his passage to Holland in order that he might receive ordination. Nor was the itinerant Alexander Innes permitted to starve to death. Newark and Elizabethtown, as we have seen, made systematic provision for the support of ministers, and their Harvard-trained preachers were men of culture and substance. Every town during the proprietary period had religious worship on its heart and mind.

Lewis Morris was pressing for the public support of Anglican ministers, but he met defeat in the assembly. He blamed Richard Hartshorne, the Quaker, and Andrew Bowne, the Baptist, for the defeat of such a measure in 1697. The next year Jeremiah Basse appeared with a commission from the proprietors as governor and an instruction from them to disallow any act providing for the public support of ministers.[21] "There is not hope of doing anything of that kind till the Governm't is in other hands," Morris concluded. He believed that the only way to bring people to the Church was for the proprietors to rule that the governor, the members of the council, and all the justices of the peace should be churchmen. The Church and the government in England, he argued, should devise some way of maintaining ministers in the colonies until the parishioners were able to support them. No man, he believed, should be granted a benefice in England unless he served for three years as a minister in the colonies. The colonials, he stated, would respond to this type of encouragement. The Jerseys, when they became a royal province in 1702, exhibited a type of Anglicanism without establishment. Anglicanism was merely a missionary denomination, whose followers evinced a strong desire to transplant the episcopate to America. A cardinal handicap to its development was the lack of an American bishop. In Anglicanism, unlike the other denominations, ordination was impossible unless the candidate was able to make the long journey to England. Few English ministers of any standing offered themselves as candidates for churches in America.[22]

Perth Amboy in 1698 obtained an Anglican minister, but his term was short. This small town, created by the proprietors, comprised Scottish Presbyterians, some Dissenters, including Quakers, and a few Anglicans. The latter if they wished the Lord's Supper were forced to attend the chapel at Fort James in New York or await the infrequent visits of the chaplain to Perth Amboy. In 1695 William Dockwra, executive secretary of the proprietors in London, was persuaded by three visiting resident proprietors—George Willocks, Thomas Gordon, and David Lyell—to petition Bishop Henry Compton of London for a clergyman. The bishop of London was the nominal diocesan of the American colonies. The proprietors had in mind Edward Portlock, whom Compton had ordained as a deacon in 1691. Compton, who was sincerely interested in the welfare of the Church in America, obligingly ordained Portlock to the priesthood and arranged to underwrite the expenses of his voyage. The proprietors in their turn guaranteed to support his ministry.

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[21] *N.J.A.*, II, 212.

[22] Nelson R. Burr, *The Anglican Church in New Jersey* (Philadelphia, 1954), 4-11. This is a definitive work.

Although Portlock was not able to emigrate to America until the autumn of 1698, Governor Basse and the resident proprietors set aside one of the old proprietors' houses for use as a church. This house had been used formerly as a courthouse. Several donors generously provided the funds for a pulpit and seats and for glazing the windows. Basse wrote that it was the town's only church. Until it was made ready, Portlock conducted the services either in the governor's house or in a house that belonged to William Dockwra. Portlock described himself as "Rector Temple Christi de New Jersey." Besides conducting services in Perth Amboy, he visited the churchless congregations at Woodbridge, Elizabethtown, and Piscataway. He also accompanied Basse to the West Jersey capital of Burlington when business called him there as governor. In February 1699 Portlock was invited to preach to the legislature of East Jersey. Shortly after, Portlock gave up his pulpit. He served in Philadelphia until the Reverend Evan Evans arrived, then moved to Virginia as rector of Stratton Major parish where he died about 1718.[23]

The Reverend Alexander Innes was the real representative of the Church in East Jersey until the coming of George Keith. A native of Aberdeen he was probably a graduate of the University of Aberdeen. He came to East Jersey during the Scottish immigration, but in April 1686 he was called to New York as chaplain at Fort James. With the accession of William and Mary he was suspected of being a Jacobite. To escape the accusations of Jacob Leisler, the reigning demagogue, Innes left the city in August 1689 still sturdily protesting his loyalty. Settling first among relatives and friends in Middletown, he later purchased a farm on the Hop River. Innes served the Church as a selfless and devoted missionary without charge, and though George Keith later praised him as "a man of great piety and Probity," the Society for the Propagation of the Gospel never appointed him a missionary. Innes obtained the sites for the churches at Middletown and Shrewsbury, and he was present at the organization of Christ Church, Shrewsbury, on Christmas Day 1702. He was likewise instrumental in encouraging the formation of a congregation at Freehold. He aided Keith's mission by reading prayers and baptizing adults and children. In 1709, his health failing, he sold his farm and lived with relatives in Perth Amboy until his death. In his will he left £10 to the church in Freehold, £5 each to Shrewsbury and Middletown, 50s. towards the building of a church in Piscataway, and 40s. towards the furnishing of St. John's in Elizabethtown. His library of 179 titles was bequeathed to the use of the clergy in Middletown, Shrewsbury, and Freehold. When he died in 1717, the sheriff, the justices of the peace, and the grand jury of Monmouth County praised Innes who "by unwearied Pains and Industry" had organized three congregations among widely scattered people, visiting each of them once every three weeks to instruct and preach to them.[24]

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[23] *ibid.*, 16-18, 635-636.

When the Society for the Propagation of the Gospel (S.P.G.) began its work in New Jersey in 1702, although there were Anglicans scattered throughout the new royal colony, there was still no organized church. The actual number of communicants in 1700 was small—only twelve if one can believe Lewis Morris. East Jerseymen, comments Dr. Burr, if they thought of the Church at all, thought of it as "the private chapel of a few alien aristocrats." But baptized members and sympathizers probably numbered hundreds, and there were unorganized congregations at Toponemus, Perth Amboy, Woodbridge, Piscataway, and Elizabethtown in East Jersey and the beginnings of congregations at Burlington, Salem, and Crosswicks in West Jersey. In view of these early stirrings, however, the time was ripe for the introduction of organized Anglicanism.

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[24] *ibid.*, 13-14, 615-616.

North of Maryland the Church was indeed weak. As late as 1695 there was no parish in New England. Aside from the chaplain at Fort James there was no other minister until the borders of Maryland were reached. By 1700 the situation had improved but little. In England itself the Church was faring far from well. Its restoration in 1660 had been endangered by the accession in 1685 of King James, an ardent Catholic, and it was not until the coming of William and Mary in 1689 that the Church could turn to other matters than its preoccupation with survival.

As early as 1663 the bishop of London was given the responsibility of sending ministers to the plantations and of exercising jurisdiction over them. But Bishop Henry Compton was not happy with the progress that had been made. Only four ministers had been sent to America, aside from Virginia. Compton was determined to improve the situation. He persuaded Charles II to donate £20 toward the cost of the voyage to every Anglican minister or schoolmaster who would labor in the colonies. He also obtained the sum of £1,200 from the King for parish libraries. The colonial governors were instructed not to permit anyone to serve in a parish or to teach school without the bishop's license and were told that every minister must be a member of his vestry. Compton then appointed commissaries in several royal colonies to introduce orderly church administration. Still there was no regular provision for sending and paying ministers outside the official establishments in Virginia, Maryland, and the West Indies and, of course, no American bishop. A proprietary such as East Jersey received no benefit from these arrangements.

The S.P.G. was revived in 1662 by a charter from Charles II as "The Company for the Propagation of the Gospel in New England and Parts adjacent in America." Its achievement was the result of the interest of individuals like Robert Boyle, whom the King named as its first governor. Boyle left a bequest providing an annual stipend for a minister who would work in foreign parts. Sir Leolyne Jenkins, another layman, bequeathed money to educate two ministers at Oxford on condition that they should serve either at sea or in the colonies. A bounty of £20 a year would be theirs while engaged upon such duties. In 1697 the Reverend Thomas Bray, who the year before was a missionary in Maryland, after trying to interest Parliament in establishing ministers and libraries in the colonies proposed to Compton the formation of the Society for Promoting Christian Knowledge (S.P.C.K.). This Society was incorporated in 1699. Bray received support from the Queen not only for his work in Maryland but for the S.P.C.K.

Archbishop Thomas Tenison of Canterbury and Bishop Compton next set out to secure a charter of incorporation for the S.P.G. as a missionary society. From March until July 1701 these men together with Dr. Bray expended every effort. Success crowned their work when an instrument was granted enabling the Society to hold real and personal property for income, hold an annual meeting, elect officers, and use an official seal. The first meeting, held at Lambeth Palace, was presided over by Tenison. Thus began a movement that by the time of the American Revolution had sent some 350 missionaries to America, including more than 40 to New Jersey. It supplied, in addition, thousands of tracts and books. Because of its large appeal to a reawakening Anglican Church, gifts poured in from many sources. Some were as large as £1,000. These and later funds were invested in real estate, bonds, and stocks, and this income rendered the Society independent of aid, to a degree, from the Church and the government. Of this bounty New Jersey received a fair share. Dr. Burr estimates the disbursements for missionary salaries alone at nearly £23,000 from 1702 to 1775.[25]

The Society weighed carefully the best means of making a beginning in the middle colonies. It finally came to the conclusion that it should first send a traveling minister to determine a plan of campaign on the basis of an on-the-spot survey. George Keith, the apostate Quaker, satisfied the Society's requirement of a well-educated man, a convincing preacher, and a skilled theological dialectician who was thoroughly familiar with religious conditions in New Jersey, New York, and Pennsylvania.[26]

Keith was born in Peterhead, Aberdeenshire, Scotland, in 1638 and received his degree of master of arts from the University of Aberdeen. He was a versatile scholar, learned in such diverse fields as mathematics, philosophy, and Oriental studies. He used his mathematics to good purpose as a surveyor. Raised as a Presbyterian he was converted to Quakerism, a sect in which he rose rapidly. In 1677 he accompanied Penn, Barclay, and other Quaker leaders on a missionary tour to Holland and Germany. Until he left for America, he was imprisoned repeatedly for his religious convictions. In 1684 Keith, whose old friend Robert Barclay was now governor of New Jersey, was appointed surveyor general. He arrived in Perth Amboy with his family in February 1685 where he was made welcome as a person of status. He entered upon a busy career as a private and public surveyor. He assisted, for example, in surveying the town bounds of Bergen and in running the lines between the two Jerseys and between East Jersey and New York. He found time to amass a landed estate of his own with 700 acres in Monmouth County and 300 in Middlesex, and he received as a gift 500 acres in Pennsylvania from his friend William Penn.

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[25] *ibid.*, 21-30.

[26] Ethyn W. Kirby, *George Keith* (New York, 1942), an excellent biography. For Keith's activities in Pennsylvania and the Jerseys, see also Pomfret, *West New Jersey*, 242-258.

Keith became the leading Quaker minister of the middle colonies. In his capacity as a "public Friend," he visited many meetings. He challenged, in vain, the leading New England Puritan divines to debate in public with him. In 1689 he moved to Philadelphia, ostensibly to administer and instruct in the Friends' school there, but in reality to be in the vortex of Friends' affairs. Keith became more and more disturbed by the state of Quakerism in America. His early Presbyterian training had given him a belief in a logically worked-out doctrine and a formal creed. He was concerned about the type of Quaker who had no patience with either. He feared the influence of "ranters" and "airey notionists" who leaned heavily upon "the inner light." In short, he began to revert to his early religious training and to emphasize orthodox Christian doctrine and order. In doing so he stressed the Presbyterian concept of a preacher as one set apart, which was contrary to the Quaker idea of the priesthood of all believers. The Philadelphia Friends resented his attempts to reform them and turn their meetings into lectures. Keith and his sympathizers began to criticize some of the Quaker leaders because they were taking a part in the government of Pennsylvania. This was a sensitive matter. A rift developed, and as it grew wider Keith thought seriously of returning to Scotland. But when the quarrel drifted into personal abuse and rancor, Keith determined to vindicate himself. After a long and involved internecine quarrel, Keith was disowned by the Philadelphia Yearly Meeting of 1692, largely because its patience was exhausted. Thereupon he departed for London to place his grievance before the London Yearly Meeting, the highest court of the Quaker world. There, instead of winning advocates, he alienated many of his supporters. The London meeting upheld the decision of the Philadelphia Yearly Meeting.[27]

When Keith left Pennsylvania, the Friends in the middle colonies were split into Keithites, or Christian Quakers, and orthodox Quakers. A number became Keithian Baptists. Others drifted toward the Church of England. At least fifteen meetings principally in Pennsylvania were disturbed for years to come. As weak as it was, Quakerism in East Jersey was left still weaker following Keith's defection. For example, there was no entry in the minute book of the Perth Amboy Monthly Meeting between 1689 and 1704.[28]

Keith himself remained in London to expound his point of view to all. He preached as an "independent" in Turner's Hall from 1694 to 1699. He wrote diatribes against the Quakers. In time his point of view revealed little difference from that of the Church of England, which finally set out to woo him in earnest. In 1699 the S.P.C.K. appointed him its traveling missionary. In 1700 he received the sacrament of Communion, and four months later he was made a deacon by Bishop Compton. Finally, in March 1702 he was ordained a priest. A number of English Quakers followed him into the Anglican fold. In America the Quakers closed ranks, but a number of Keith's followers awaited his guidance. Dr. John Johnstone of Navesink and Thomas Boell and John Reid of Freehold, all considerable landholders, were his leading supporters in East Jersey, while Lewis Morris remained his friend. In September 1701 Keith by invitation made a report to the S.P.G. He claimed that the Quaker schism had caused five hundred to leave their meetings and that many of them had joined the Church and others would do so if given proper guidance. On the basis of his presentation the leaders of the S.P.G. were certain that he was the man best qualified to survey the position of the Church in the colonies and to formulate recommendations for a realistic program. The Society voted to send him to America to make a firsthand inspection. It allowed him a salary of £200 a year, all expenses, £50 for books to use in establishing Church libraries, and £200 additional for his wife's maintenance should he die while on this service.

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[27] Kirby, *George Keith*, 47-49.

[28] Monette, *First Settlers*, Pt. II, 279.

Keith's conversion and the announcement of his mission created a stir in England. The alarmed Quakers sent Samuel Bownas, one of their ablest young ministers, from England to assist Thomas Story, who was already there, in combating Keith's influence. Keith came over on the *Centurion*, one of the Queen's ships, with Lewis Morris and Joseph Dudley, governor of Massachusetts. Before the voyage was over, Keith had persuaded the ship's chaplain, John Talbot, to whom he had taken a great liking, to serve as his associate. The *Centurion* landed at Marblehead in June 1702, and Keith made his way to Boston where he preached at Queen's Chapel and engaged in pamphlet warfare with Increase Mather. He then proceeded to New York, where he arrived on October 1 after visiting New London and various Long Island towns. Nor did he tarry there, since he believed that the most immediate gains could be made in New Jersey and Pennsylvania.

Keith began in New Jersey by preaching to the small congregation in Perth Amboy where he was welcomed by John Barclay and Miles Forster. He attended the separatist Quaker Yearly Meeting at Toponemus where he preached to a mixed congregation of Quakers, Presbyterians, and Anglicans. In Middletown Keith preached to another small congregation of Anglicans and Baptists, and John Talbot assisted him by reading the prayers. Keith then went over to Shrewsbury, where the Friends were meeting, in the hope of finding a public Friend (minister) who would debate with him. Although he failed, he did talk with the aging Innes. By the end of October he was in Burlington and on November 5, in Philadelphia.

Keith and Talbot were indefatigable. Later in November both attended a first meeting of all the clergy of the middle colonies. Here in New York were gathered also Innes, Evan Evans of Philadelphia, the chaplain of Fort James, and the two ministers of Trinity Church. They sent to the S.P.G. a detailed "Account of the State of the Church in North America," in which they recommended tracts and books to refute the Quaker attacks, a large supply of Prayer Books, and sermons. They also had the temerity to suggest the appointment of an American bishop. Keith and Talbot then preached in New York City, Hempstead, Flushing, Oyster Bay, Staten Island, Navesink, Tinton Falls, Shrewsbury, and Freehold. At Freehold they baptized 19 children and adults who had been Quakers. There were additional baptisms in the Quaker stronghold of Burlington. During the summer of 1703 Keith made a trip to Virginia, Maryland, and North Carolina but returned to Burlington in August to preach the first sermon at newly built St. Mary's Church.

Until it was time for him to return to England in June 1704, Keith remained for the most part in East Jersey. He was at Toponemus with Innes, and he preached at Perth Amboy, Elizabethtown, Rahway, Woodbridge, and Piscataway. In these places Keith and Talbot baptized 23 persons. Since churches were few, services were held in private homes: at Andrew Craig's and Andrew Hanson's in Elizabethtown, at Governor Cornbury's in Perth Amboy, at Richard Townley's in Elizabethtown, and at John Bishop's in Rahway. In Woodbridge the Puritans permitted the use of the meetinghouse. Keith and Talbot believed that they had influenced some Independents, particularly in Elizabethtown. In January and February of 1704 Keith was again in Monmouth County, where he preached at the homes of Johnstone, Boels, Reid, and Morris. On February 13, at Burlington, he preached his farewell sermon.[29]

In 1706 Keith published *A Journal of Travels from New Hampshire to Caratuck*. There he rendered a close account of his travels and experiences. At the age of seventy he had traveled more than 800 miles in all kinds of weather. Much of this ground was traversed more than once. He preached, baptized, and made converts wherever he went. There were not so many Quakers won over as Keith had anticipated since Bownas and Story tracked after him repairing the damage as soon as possible. But Keith and Talbot were much encouraged by their welcome by the generality of the people in East Jersey, far more of whom than supposed were friendly to the Established Church. Keith, who found practically nothing in New Jersey, left it with a spirit of organization. There was a real parish at Burlington and the beginnings of others at Elizabethtown, Woodbridge, Shrewsbury, Middletown, Piscataway, and Toponemus in East Jersey and Hopewell, Maidenhead (Lawrenceville), Waterford, and Greenwich in West Jersey. Keith in his report to the Society had stressed the need to develop as parishes Perth Amboy, Shrewsbury, Elizabethtown, and Freehold in East Jersey and Maidenhead and Greenwich in West Jersey. John Talbot, who remained at Burlington after Keith's departure, took up where Innes was leaving off, and in 1705 the Reverend John Brooke began as the S.P.G.'s missionary at Elizabethtown. As unimpressive as Keith's legacy might seem, the fact remains that the Church had acquired a substantial frame of reference for development in East Jersey under the royal government. The path was not to be an easy one, but, thanks to Keith, it had been marked.[30]

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[29] Kirby, *George Keith*, 80-124.

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[30] Burr, *Anglican Church*, 37-44.

Appendix

The Twelve Proprietors	The Twenty-four Proprietors	TRANSFERS AND FRACTIONING, 1683-1702						
William Penn	William Penn Robert Barclay	William Penn Robert Barclay		Edward Fleatham	1/10	Gilbert Molleson		
Robert West	Robert West	Thomas Cox		John Backer Sir Ewen Cameron William Dockwra	1/2 13/40 7/40	R. West and T. Cox	West Jersey Society	
Thomas Rudyard	Edward Byllynge	Edward Byllynge		Daniel Coxe		Samuel Stancliffe	Daniel Coxe	West Jersey Society
	Thomas Rudyard	Thomas Rudyard John West Samuel Winder	1/2 1/4 1/4					
	Robert Turner	John Throgmorton et al John Johnstone Others, in 64ths.	1/2 1/4 1/4					
Samuel Groom	Samuel Groom James Brain	William Dockwra Brain's Heirs						
Thomas Hart	Thomas Hart Arent Sonmans	Thomas Hart Sonmans' Heirs						
Richard Mew	Richard Mew	John Hancock (in trust for Sonmans' Heirs)	1/2	Sonmans' Heirs				
		William Dockwra	1/2	Robert Blackwood Lord Neill Campbell	1/2			
	William Gibson	Gibson's Heirs		R. West and T. Cox		Daniel Coxe	West Jersey Society	

Thomas Wilcox	Gawen Lawrie (in trust for Sonmans' Heirs)	Sonmans' Heirs								
	David Barclay, Jr.	Robert Barclay		Sonmans' Heirs						
Ambrose Rigge	Ambrose Rigge	Thomas Robinson	1/2	Dr. Andrew Hamilton						David Lyell
		Robert Barclay	1/2	David Barclay	1/20	Robert Barclay		John Barclay		
				Robert Fullerton	1/20					
				Thomas Fullerton	1/20					
				Thomas Gordon	1/20					
				Charles Gordon	1/20	George Henrie		Thomas Gordon		
				Dr. John Gordon	1/20					
				James Johnstone	1/20	Dr. John Johnstone				
				Dr. John Johnstone	1/20					
				William Aickman	1/20					
				Sir John Dalrymple	1/20					
	Thomas Barker	Thomas Barker	1/2							
		Walter Benthall	1/2							
John Heywood	John Heywood	Robert Burnett		Robert Burnett	1/2					
				Andrew Jaffray	1/16					
				James Willocks	1/4	Andrew Galloway James Willocks	1/32 3/32	George Willocks	1/4	Jeremiah Basse
				William Gerrard	1/32					
				Robert Gordon	1/32	George Willocks				
				James Miller	1/32	Andrew Burnett				
				George Alexander	1/32					
				Robert Sandilands	1/16					
				Robert Hardy	1/128					
	Thomas Warne	Thomas Warne	1/3							
		Anthony Sharp	1/3							
		Samuel Claridge	1/3	Samuel Claridge	1/6					
				Thomas Sisson	1/12					
				William Bingley	1/12					

Hugh Hartshorne	Hugh Hartshorne	Sonmans' Heirs					
	Earl of Perth, James Drummond	Earl of Perth	1/4				
		Sonmans' Heirs	1/4				
		Sir George Mackenzie (Viscount Tarbat)	1/4	Lord Neill Campbell	1/4		
		Lord Minevard (David Toshard)	1/4	David Mudie	1/4		
Clement Plumstead	Clement Plumstead	Clement Plumstead	1/2				
		Robert Burnett	1/2	Robert Burnett	21/32		
				Dr. William Robertson	1/8		
				John Forbes	1/10		
				Dr. John Alexander	1/32		
	Robert Gordon of Cluny	Robert Gordon	1/2	Augustine Gordon			
		Gawen Lawrie	1/2				
Thomas Cooper	Thomas Cooper	Thomas Cooper	1/2				
		Sir John Gordon of Durno	1/2	Sir John Gordon	1/10	Sir Robert Gordon	1/5
				Sir Robert Gordon, Ygr.	1/20	Sir Robert Gordon	
				George Gordon	1/20	Sir Robert Gordon	
				Charles Ormston	1/10		
				David Mudie	1/20	David Violent	
				Capt. Andrew Hamilton	1/20		
				Thomas Pearson	1/20	John Bowne	
				Sir George Mackenzie	1/40		
				David Falconer	1/40		
	John Drummond of Lundin (Viscount Melfort)	John Drummond	3/8				
		John Campbell	1/8				
		Sonmans' Heirs	1/2				

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